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I

(Acts whose publication is obligatory)

**COMMISSION REGULATION (EC) No 847/2003
of 16 May 2003
establishing the standard import values for determining the entry price of certain fruit and
vegetables**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Commission Regulation (EC) No 3223/94 of 21 December 1994 on detailed rules for the application of the import arrangements for fruit and vegetables ⁽¹⁾, as last amended by Regulation (EC) No 1947/2002 ⁽²⁾, and in particular Article 4(1) thereof,

Whereas:

- (1) Regulation (EC) No 3223/94 lays down, pursuant to the outcome of the Uruguay Round multilateral trade negotiations, the criteria whereby the Commission fixes the standard values for imports from third countries, in respect of the products and periods stipulated in the Annex thereto.

- (2) In compliance with the above criteria, the standard import values must be fixed at the levels set out in the Annex to this Regulation,

HAS ADOPTED THIS REGULATION:

Article 1

The standard import values referred to in Article 4 of Regulation (EC) No 3223/94 shall be fixed as indicated in the Annex hereto.

Article 2

This Regulation shall enter into force on 17 May 2003.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 16 May 2003.

For the Commission
J. M. SILVA RODRÍGUEZ
Agriculture Director-General

⁽¹⁾ OJ L 337, 24.12.1994, p. 66.

⁽²⁾ OJ L 299, 1.11.2002, p. 17.

ANNEX

to the Commission Regulation of 16 May 2003 establishing the standard import values for determining the entry price of certain fruit and vegetables

(EUR/100 kg)		
CN code	Third country code ⁽¹⁾	Standard import value
0702 00 00	052	85,0
	096	49,6
	999	67,3
0707 00 05	052	103,2
	999	103,2
0709 90 70	052	91,2
	999	91,2
0805 10 10, 0805 10 30, 0805 10 50	052	41,2
	204	41,2
	220	39,8
	388	53,5
	600	53,9
	624	75,2
	999	50,8
0805 50 10	400	53,4
	528	59,9
	999	56,6
0808 10 20, 0808 10 50, 0808 10 90	204	46,5
	388	77,7
	400	98,4
	404	128,4
	508	81,0
	512	78,6
	524	67,5
	528	73,2
	720	106,7
	804	103,0
	999	86,1

⁽¹⁾ Country nomenclature as fixed by Commission Regulation (EC) No 2020/2001 (OJ L 273, 16.10.2001, p. 6). Code '999' stands for 'of other origin'.

COMMISSION REGULATION (EC) No 848/2003**of 16 May 2003****fixing the minimum selling prices for butter and the maximum aid for cream, butter and concentrated butter for the 119th individual invitation to tender under the standing invitation to tender provided for in Regulation (EC) No 2571/97**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1255/1999 of 17 May 1999 on the common organisation of the market in milk and milk products ⁽¹⁾, as last amended by Commission Regulation (EC) No 509/2002 ⁽²⁾, and in particular Article 10 thereof,

Whereas:

- (1) The intervention agencies are, pursuant to Commission Regulation (EC) No 2571/97 of 15 December 1997 on the sale of butter at reduced prices and the granting of aid for cream, butter and concentrated butter for use in the manufacture of pastry products, ice-cream and other foodstuffs ⁽³⁾, as last amended by Regulation (EC) No 635/2000 ⁽⁴⁾, to sell by invitation to tender certain quantities of butter that they hold and to grant aid for cream, butter and concentrated butter. Article 18 of that Regulation stipulates that in the light of the tenders received in response to each individual invitation to tender a minimum selling price shall be fixed for butter and maximum aid shall be fixed for cream, butter and concentrated butter. It is further stipulated that the price

or aid may vary according to the intended use of the butter, its fat content and the incorporation procedure, and that a decision may also be taken to make no award in response to the tenders submitted. The amount(s) of the processing securities must be fixed accordingly.

- (2) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Milk and Milk Products,

HAS ADOPTED THIS REGULATION:

Article 1

The minimum selling prices and the maximum aid and processing securities applying for the 119th individual invitation to tender, under the standing invitation to tender provided for in Regulation (EC) No 2571/97, shall be fixed as indicated in the Annex hereto.

Article 2

This Regulation shall enter into force on 17 May 2003.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 16 May 2003.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 160, 26.6.1999, p. 48.

⁽²⁾ OJ L 79, 22.3.2002, p. 15.

⁽³⁾ OJ L 350, 20.12.1997, p. 3.

⁽⁴⁾ OJ L 76, 25.3.2000, p. 9.

ANNEX

to the Commission Regulation of 16 May 2003 fixing the minimum selling prices for butter and the maximum aid for cream, butter and concentrated butter for the 119th individual invitation to tender under the standing invitation to tender provided for in Regulation (EC) No 2571/97

(EUR/100 kg)

Formula			A		B	
Incorporation procedure			With tracers	Without tracers	With tracers	Without tracers
Minimum selling price	Butter ≥ 82 %	Unaltered	—	—	—	—
		Concentrated	—	—	—	—
Processing security		Unaltered	—	—	—	—
		Concentrated	—	—	—	—
Maximum aid	Butter ≥ 82 %		85	81	85	81
	Butter < 82 %		83	79	—	79
	Concentrated butter		105	101	105	101
	Cream		—	—	36	34
Processing security	Butter		94	—	94	—
	Concentrated butter		116	—	116	—
	Cream		—	—	40	—

COMMISSION REGULATION (EC) No 849/2003**of 16 May 2003****fixing the maximum purchasing price for butter for the 72nd invitation to tender carried out under the standing invitation to tender governed by Regulation (EC) No 2771/1999**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1255/1999 of 17 May 1999 on the common organisation of the market in milk and milk products ⁽¹⁾, as last amended by Commission Regulation (EC) No 509/2002 ⁽²⁾, and in particular Article 10 thereof,

Whereas:

- (1) Article 13 of Commission Regulation (EC) No 2771/1999 of 16 December 1999 laying down detailed rules for the application of Council Regulation (EC) No 1255/1999 as regards intervention on the market in butter and cream ⁽³⁾, as last amended by Regulation (EC) No 359/2003 ⁽⁴⁾, provides that, in the light of the tenders received for each invitation to tender, a maximum buying-in price is to be fixed in relation to the intervention price applicable and that it may also be decided not to proceed with the invitation to tender.

- (2) As a result of the tenders received, the maximum buying-in price should be fixed as set out below.

- (3) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Milk and Milk Products,

HAS ADOPTED THIS REGULATION:

Article 1

For the 72nd invitation to tender issued under Regulation (EC) No 2771/1999, for which tenders had to be submitted not later than 13 May 2003, the maximum buying-in price is fixed at 295,38 EUR/100 kg.

Article 2

This Regulation shall enter into force on 17 May 2003.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 16 May 2003.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 160, 26.6.1999, p. 48.

⁽²⁾ OJ L 79, 22.3.2002, p. 15.

⁽³⁾ OJ L 333, 24.12.1999, p. 11.

⁽⁴⁾ OJ L 53, 28.2.2003, p. 17.

COMMISSION REGULATION (EC) No 850/2003**of 16 May 2003****fixing the maximum aid for concentrated butter for the 291st special invitation to tender opened under the standing invitation to tender provided for in Regulation (EEC) No 429/90**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1255/1999 of 17 May 1999 on the common organisation of the market in milk and milk products ⁽¹⁾, as last amended by Commission Regulation (EC) No 509/2002 ⁽²⁾, and in particular Article 10 thereof,

Whereas:

- (1) In accordance with Commission Regulation (EEC) No 429/90 of 20 February 1990 on the granting by invitation to tender of an aid for concentrated butter intended for direct consumption in the Community ⁽³⁾, as last amended by Regulation (EC) No 124/1999 ⁽⁴⁾, the intervention agencies are opening a standing invitation to tender for the granting of aid for concentrated butter; Article 6 of that Regulation provides that in the light of the tenders received in response to each special invitation to tender, a maximum amount of aid is to be fixed for concentrated butter with a minimum fat content of 96 % or a decision is to be taken to make no award; the end-use security must be fixed accordingly.

- (2) In the light of the tenders received, the maximum aid should be fixed at the level specified below and the end-use security determined accordingly.

- (3) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Milk and Milk Products,

HAS ADOPTED THIS REGULATION:

Article 1

For the 291st special invitation to tender under the standing invitation to tender opened by Regulation (EEC) No 429/90, the maximum aid and the amount of the end-use security shall be as follows:

- | | |
|---------------------|-----------------|
| — maximum aid: | EUR 105/100 kg, |
| — end-use security: | EUR 116/100 kg. |

Article 2

This Regulation shall enter into force on 17 May 2003.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 16 May 2003.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 160, 26.6.1999, p. 48.

⁽²⁾ OJ L 79, 22.3.2002, p. 15.

⁽³⁾ OJ L 45, 21.2.1990, p. 8.

⁽⁴⁾ OJ L 16, 21.1.1999, p. 19.

COMMISSION REGULATION (EC) No 851/2003

of 16 May 2003

amending Regulation (EEC) No 3444/90 laying down detailed rules for granting private storage aid for pigmeat

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

HAS ADOPTED THIS REGULATION:

Having regard to the Treaty establishing the European Community,

Article 1

Having regard to Council Regulation (EEC) No 2759/75 of 29 October 1975 on the common organisation of the market in pigmeat ⁽¹⁾, as last amended by Regulation (EC) No 1365/2000 ⁽²⁾, and in particular Article 7(2) thereof,

Regulation (EEC) No 3444/90 is hereby amended as follows:

Whereas:

1. The following paragraph is added to Article 7:

‘3. If the requirements laid down in paragraph 1 are not complied with, no aid shall be paid in respect of the contract concerned and the entire security for that contract shall be forfeit.’

2. The fourth subparagraph of Article 9(4) is replaced by the following:

‘For the purposes of this paragraph, proof of export shall be offered in accordance with Articles 7 and 8 of Regulation (EC) No 800/1999 in the case of products qualifying for a refund.

In the case of products not qualifying for a refund, proof of export shall be offered in the cases provided for in Article 8 of Regulation (EC) No 800/1999 by producing the original T5 control copy, in accordance with Articles 912a, 912b, 912c, 912e and 912g of Regulation (EEC) No 2454/93. One of the following entries must be made in box 107 of the control copy when it is being drawn up:

- Reglamento (CEE) n° 3444/90
- Forordning (EØF) nr. 3444/90
- Verordnung (EWG) Nr. 3444/90
- Κανονισμός (ΕΟΚ) αριθ. 3444/90
- Regulation (EEC) No 3444/90
- Règlement (CEE) n° 3444/90
- Regolamento (CEE) n. 3444/90
- Verordening (EEG) nr. 3444/90
- Regulamento (CEE) n.º 3444/90
- Asetus (ETY) N:o 3444/90
- Förordning (EEG) nr 3444/90’.

(1) Article 7 of Commission Regulation (EEC) No 3444/90 ⁽³⁾, as amended by Regulation (EC) No 3533/93 ⁽⁴⁾, lays down the rules applying to the time limit for producing supporting evidence for the payment of aid, but does not make provision for cases where no supporting evidence is presented. The appropriate provisions should therefore be adopted.

(2) Article 9(4) of Regulation (EEC) No 3444/90 provides for the possibility of curtailing the storage period in the case of exports of products under contract, regardless of whether they qualify for an export refund or not. Where the products qualify for a refund, proof of export is offered using the documents laid down in Article 7 of Commission Regulation (EC) No 800/1999 of 15 April 1999 laying down common detailed rules for the application of the system of export refunds on agricultural products ⁽⁵⁾, as last amended by Regulation (EC) No 444/2003 ⁽⁶⁾. With a view to simplifying the monitoring operations, a similar procedure should be introduced for the proof to be offered when products are exported without a refund.

(3) In order to ensure the proper operation of the private storage aid introduced pursuant to Commission Regulation (EC) No 2179/2002 of 6 December 2002 on special conditions for the granting of private storage aid for pigmeat ⁽⁷⁾, the proposed amendments should apply immediately to the contracts concluded under that Regulation.

(4) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Pigmeat,

Article 2

This Regulation shall enter into force on the day of its publication in the *Official Journal of the European Union*.

It shall apply to all new private storage aid and to the contracts concluded under Regulation (EC) No 2179/2002.

However, Article 1(2) shall apply only to exports that take place on or after the date of entry into force of this Regulation.

⁽¹⁾ OJ L 282, 1.11.1975, p. 1.

⁽²⁾ OJ L 156, 29.6.2000, p. 5.

⁽³⁾ OJ L 333, 30.11.1990, p. 22.

⁽⁴⁾ OJ L 321, 23.12.1993, p. 9.

⁽⁵⁾ OJ L 102, 17.4.1999, p. 11.

⁽⁶⁾ OJ L 67, 12.3.2003, p. 3.

⁽⁷⁾ OJ L 331, 7.12.2002, p. 11.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 16 May 2003.

For the Commission
Franz FISCHLER
Member of the Commission

COMMISSION REGULATION (EC) No 852/2003**of 16 May 2003****amending Regulation (EC) No 1445/95 on rules of application for import and export licences in the beef and veal sector**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1254/1999 of 17 May 1999 on the common organisation of the market in beef and veal ⁽¹⁾, as last amended by Commission Regulation (EC) No 2345/2001 ⁽²⁾, and in particular Article 29(2) thereof,

Whereas:

(1) Under Article 29 of Regulation (EC) No 1254/1999, exports from the Community of products listed in Article 1(1)(a) and (b) thereof may be subject to presentation of an export licence.

(2) The negotiations on the adoption of additional concessions, held within the framework of the Europe Agreements between the European Community and the associated central and east European Countries, aim in particular to liberalise trade in products covered by the common organisation of the market in beef and veal.

(3) To benefit from these concessions, it has been agreed in the context of the above negotiations that the beef and veal products covered by some of these agreements and exported from the Community to these countries must be accompanied by a certified copy of the export licence endorsed 'without refund'. In this context, provision should be made for the Member States to issue to interested parties upon request, under simplified arrangements, export licences for products covered by Regulation (EC) No 1254/1999 for which no licence is currently required and which are intended for export to the associated countries of central and eastern Europe.

(4) Since the purpose of the above licences is simply to certify that the products exported have not received an export refund, the issue of those licences is not subject to the application of the fourth subparagraph of Article 29(1) of Regulation (EC) No 1254/1999, under which the issue of export licences is subject to the lodging of a security guaranteeing that the products are exported during the term of validity of the licence. For the sake of

clarity, it should be specified that Article 15(2) of Commission Regulation (EC) No 1291/2000 of 9 June 2000 laying down common detailed rules for the application of the system of import and export licences and advance-fixing certificates for agricultural products ⁽³⁾, as last amended by Regulation (EC) No 325/2003 ⁽⁴⁾, does not apply to those licences.

(5) Commission Regulation (EC) No 1445/95 ⁽⁵⁾, as last amended by Regulation (EC) No 118/2003 ⁽⁶⁾, should therefore be amended accordingly.

(6) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Beef and Veal,

HAS ADOPTED THIS REGULATION:

Article 1

The following Article 7a is added to Regulation (EC) No 1445/95:

'Article 7a

1. At the request of the interested party the Member States shall issue, without delay, export licences for beef and veal products falling within CN codes 0206 10 91, 0206 10 99, 0206 21 00, 0206 22 00, 0206 29 99, 0210 99 59 and ex 1502 00 90 which are intended for export to the associated countries of central and eastern Europe.

2. The period of validity of these licences shall be 60 days and they shall carry the words "without refund" in box 20.

3. Notwithstanding Article 8(3), these licences shall carry the 8-digit CN code in box 16.

4. Articles 9 and 13 shall not apply to licences issued under this Article.

5. Article 15(2) of Regulation (EC) No 1291/2000 shall not apply to licences as referred to in paragraph 1.'

⁽¹⁾ OJ L 160, 26.6.1999, p. 21.

⁽²⁾ OJ L 315, 1.12.2001, p. 29.

⁽³⁾ OJ L 152, 24.6.2000, p. 1.

⁽⁴⁾ OJ L 47, 21.2.2003, p. 21.

⁽⁵⁾ OJ L 143, 27.6.1995, p. 35.

⁽⁶⁾ OJ L 20, 24.1.2003, p. 3.

Article 2

This Regulation shall enter into force on the third day following its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 16 May 2003.

For the Commission

Franz FISCHLER

Member of the Commission

COMMISSION REGULATION (EC) No 853/2003**of 16 May 2003****fixing the maximum export refund on wholly milled long grain B rice to certain third countries in connection with the invitation to tender issued in Regulation (EC) No 1898/2002**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 3072/95 of 22 December 1995 on the common organisation of the market in rice ⁽¹⁾, as last amended by Commission Regulation (EC) No 411/2002 ⁽²⁾, and in particular Article 13(3) thereof,

Whereas:

(1) An invitation to tender for the export refund on rice was issued pursuant to Commission Regulation (EC) No 1898/2002 ⁽³⁾.(2) Article 5 of Commission Regulation (EEC) No 584/75 ⁽⁴⁾, as last amended by Regulation (EC) No 1948/2002 ⁽⁵⁾, allows the Commission to fix, in accordance with the procedure laid down in Article 22 of Regulation (EC) No 3072/95 and on the basis of the tenders submitted, a maximum export refund. In fixing this maximum, the criteria provided for in Article 13 of Regulation (EC) No 3072/95 must be taken into account. A contract is awarded to any tenderer whose tender is equal to or less than the maximum export refund.

(3) The application of the abovementioned criteria to the current market situation for the rice in question results in the maximum export refund being fixed at the amount specified in Article 1.

(4) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Cereals,

HAS ADOPTED THIS REGULATION:

Article 1

The maximum export refund on wholly milled long grain B rice to be exported to certain third countries pursuant to the invitation to tender issued in Regulation (EC) No 1898/2002 is hereby fixed on the basis of the tenders submitted from 12 to 15 May 2003 at 295,00 EUR/t.

Article 2

This Regulation shall enter into force on 17 May 2003.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 16 May 2003.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 329, 30.12.1995, p. 18.

⁽²⁾ OJ L 62, 5.3.2002, p. 27.

⁽³⁾ OJ L 287, 25.10.2002, p. 11.

⁽⁴⁾ OJ L 61, 7.3.1975, p. 25.

⁽⁵⁾ OJ L 299, 1.11.2002, p. 18.

COMMISSION REGULATION (EC) No 854/2003**of 16 May 2003****fixing the maximum export refund on wholly milled round grain rice to certain third countries in connection with the invitation to tender issued in Regulation (EC) No 1896/2002**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 3072/95 of 22 December 1995 on the common organisation of the market in rice ⁽¹⁾, as last amended by Commission Regulation (EC) No 411/2002 ⁽²⁾, and in particular Article 13(3) thereof,

Whereas:

- (1) An invitation to tender for the export refund on rice was issued pursuant to Commission Regulation (EC) No 1896/2002 ⁽³⁾.
- (2) Article 5 of Commission Regulation (EEC) No 584/75 ⁽⁴⁾, as last amended by Regulation (EC) No 1948/2002 ⁽⁵⁾, allows the Commission to fix, in accordance with the procedure laid down in Article 22 of Regulation (EC) No 3072/95 and on the basis of the tenders submitted, a maximum export refund. In fixing this maximum, the criteria provided for in Article 13 of Regulation (EC) No 3072/95 must be taken into account. A contract is awarded to any tenderer whose tender is equal to or less than the maximum export refund.
- (3) The application of the abovementioned criteria to the current market situation for the rice in question results in the maximum export refund being fixed at the amount specified in Article 1.

- (4) To ensure the more balanced management of quantities exported with a refund, an allocation coefficient should be set for tenders presented at the level of the maximum refund.

- (5) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Cereals,

HAS ADOPTED THIS REGULATION:

Article 1

The maximum export refund on wholly milled round grain rice to be exported to certain third countries pursuant to the invitation to tender issued in Regulation (EC) No 1896/2002 is hereby fixed on the basis of the tenders submitted from 12 to 15 May 2003 at 153,00 EUR/t.

Article 2

For tenders presented at the level of the maximum refund, an allocation coefficient is set at 75 %.

Article 3

This Regulation shall enter into force on 17 May 2003.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 16 May 2003.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 329, 30.12.1995, p. 18.

⁽²⁾ OJ L 62, 5.3.2002, p. 27.

⁽³⁾ OJ L 287, 25.10.2002, p. 5.

⁽⁴⁾ OJ L 61, 7.3.1975, p. 25.

⁽⁵⁾ OJ L 299, 1.11.2002, p. 18.

COMMISSION REGULATION (EC) No 855/2003**of 16 May 2003****fixing the maximum export refund on wholly milled round grain, medium grain and long grain A rice to be exported to certain third countries in connection with the invitation to tender issued in Regulation (EC) No 1897/2002**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 3072/95 of 22 December 1995 on the common organisation of the market in rice ⁽¹⁾, as last amended by Commission Regulation (EC) No 411/2002 ⁽²⁾, and in particular Article 13(3) thereof,

Whereas:

- (1) An invitation to tender for the export refund on rice was issued pursuant to Commission Regulation (EC) No 1897/2002 ⁽³⁾.
- (2) Article 5 of Commission Regulation (EEC) No 584/75 ⁽⁴⁾, as last amended by Regulation (EC) No 1948/2002 ⁽⁵⁾, allows the Commission to fix, in accordance with the procedure laid down in Article 22 of Regulation (EC) No 3072/95 and on the basis of the tenders submitted, a maximum export refund. In fixing this maximum, the criteria provided for in Article 13 of Regulation (EC) No 3072/95 must be taken into account. A contract is awarded to any tenderer whose tender is equal to or less than the maximum export refund.
- (3) The application of the abovementioned criteria to the current market situation for the rice in question results in the maximum export refund being fixed at the amount specified in Article 1.

- (4) To ensure the more balanced management of quantities exported with a refund, an allocation coefficient should be set for tenders presented at the level of the maximum refund.

- (5) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Cereals,

HAS ADOPTED THIS REGULATION:

Article 1

The maximum export refund on wholly milled grain, medium grain and long grain A rice to be exported to certain third countries pursuant to the invitation to tender issued in Regulation (EC) No 1897/2002 is hereby fixed on the basis of the tenders submitted from 12 to 15 May 2003 at 153,00 EUR/t.

Article 2

For tenders presented at the level of the maximum refund, an allocation coefficient is set at 75 %.

Article 3

This Regulation shall enter into force on 17 May 2003.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 16 May 2003.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 329, 30.12.1995, p. 18.

⁽²⁾ OJ L 62, 5.3.2002, p. 27.

⁽³⁾ OJ L 287, 25.10.2002, p. 8.

⁽⁴⁾ OJ L 61, 7.3.1975, p. 25.

⁽⁵⁾ OJ L 299, 1.11.2002, p. 18.

COMMISSION REGULATION (EC) No 856/2003**of 16 May 2003****fixing the maximum subsidy on exports of husked long grain rice B to Réunion pursuant to the invitation to tender referred to in Regulation (EC) No 1895/2002**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 3072/95 of 22 December 1995 on the common organisation of the market in rice ⁽¹⁾, as last amended by Commission Regulation (EC) No 411/2002 ⁽²⁾, and in particular Article 10(1) thereof,

Having regard to Commission Regulation (EEC) No 2692/89 of 6 September 1989 laying down detailed rules for exports of rice to Réunion ⁽³⁾ as amended by Regulation (EC) No 1453/1999 ⁽⁴⁾, and in particular Article 9(1) thereof,

Whereas:

- (1) Commission Regulation (EC) No 1895/2002 ⁽⁵⁾ opens an invitation to tender for the subsidy on rice exported to Réunion.
- (2) Article 9 of Regulation (EEC) No 2692/89 allows the Commission to fix, in accordance with the procedure laid down in Article 22 of Regulation (EC) No 3072/95 and on the basis of the tenders submitted, a maximum subsidy.

(3) The criteria laid down in Articles 2 and 3 of Regulation (EEC) No 2692/89 should be taken into account when fixing this maximum subsidy. Successful tenderers shall be those whose bids are at or below the level of the maximum subsidy.

(4) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Cereals,

HAS ADOPTED THIS REGULATION:

Article 1

A maximum subsidy on exports to Réunion of husked long grain rice B falling within CN code 1006 20 98 is hereby set on the basis of the tenders lodged from 12 to 15 May 2003 at 302,00 EUR/t pursuant to the invitation to tender referred to in Regulation (EC) No 1895/2002.

Article 2

This Regulation shall enter into force on 17 May 2003.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 16 May 2003.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 329, 30.12.1995, p. 18.

⁽²⁾ OJ L 62, 5.3.2002, p. 27.

⁽³⁾ OJ L 261, 7.9.1989, p. 8.

⁽⁴⁾ OJ L 167, 2.7.1999, p. 19.

⁽⁵⁾ OJ L 287, 25.10.2002, p. 3.

COMMISSION REGULATION (EC) No 857/2003

of 16 May 2003

opening an invitation to tender for the allocation of A3 export licences for fruit and vegetables
(tomatoes, oranges, lemons and apples)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 2200/96 of 28 October 1996 on the common organisation of the market in fruit and vegetables ⁽¹⁾, as last amended by Commission Regulation (EC) No 47/2003 ⁽²⁾, and in particular the third subparagraph of Article 35(3),

Whereas:

(1) Commission Regulation (EC) No 1961/2001 ⁽³⁾, as last amended by Regulation (EC) No 1176/2002 ⁽⁴⁾, lays down the detailed rules of application for export refunds on fruit and vegetables.

(2) Article 35(1) of Regulation (EC) No 2200/96 provides that, to the extent necessary for economically significant exports, the products exported by the Community may be covered by export refunds, within the limits resulting from agreements concluded in accordance with Article 300 of the Treaty.

(3) Under Article 35(2) of Regulation (EC) No 2200/96, care must be taken to ensure that the trade flows previously brought about by the refund scheme are not disrupted. For this reason and because exports of fruit and vegetables are seasonal in nature, the quantities scheduled for each product should be fixed, based on the agricultural product nomenclature for export refunds established by Commission Regulation (EEC) No 3846/87 ⁽⁵⁾, as last amended by Regulation (EC) No 118/2003 ⁽⁶⁾. These quantities must be allocated taking account of the perishability of the products concerned.

(4) Article 35(4) of Regulation (EC) No 2200/96 provides that refunds must be fixed in the light of the existing situation or outlook for fruit and vegetable prices on the Community market and supplies available on the one hand, and prices on the international market on the other hand. Account must also be taken of the transport and marketing costs and of the economic aspect of the exports planned.

(5) In accordance with Article 35(5) of Regulation (EC) No 2200/96, prices on the Community market are to be established in the light of the most favourable prices from the export standpoint.

(6) The international trade situation or the special requirements of certain markets may call for the refund on a given product to vary according to its destination.

(7) Tomatoes, oranges, lemons and apples of classes Extra, I and II of the common quality standards can currently be exported in economically significant quantities.

(8) In order to ensure the best use of available resources and in view of the structure of Community export, it is appropriate to proceed by an open invitation to tender and to fix the indicative refund amount and the scheduled quantities for the period concerned.

(9) The Management Committee for fresh Fruit and Vegetables has not delivered an opinion within the time limit set by its chairman,

HAS ADOPTED THIS REGULATION:

Article 1

1. An invitation to tender for the allocation of A3 export licences is hereby opened. The products concerned, the tender submission period, the indicative refund rates and the scheduled quantities are fixed in the Annex hereto.

2. The licences issued in respect of food aid as referred to in Article 16 of Commission Regulation (EC) No 1291/2000 ⁽⁷⁾ shall not count against the eligible quantities in the Annex hereto.

3. Notwithstanding the application of Article 5(6) of Regulation (EC) No 1961/2001, the term of validity of the A3 licences shall be two months.

Article 2

This Regulation shall enter into force on 3 June 2003.

⁽¹⁾ OJ L 297, 21.11.1996, p. 1.

⁽²⁾ OJ L 7, 11.1.2003, p. 64.

⁽³⁾ OJ L 268, 9.10.2001, p. 8.

⁽⁴⁾ OJ L 170, 29.6.2002, p. 69.

⁽⁵⁾ OJ L 366, 24.12.1987, p. 1.

⁽⁶⁾ OJ L 20, 24.1.2003, p. 3.

⁽⁷⁾ OJ L 152, 24.6.2000, p. 1.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 16 May 2003.

For the Commission

Franz FISCHLER

Member of the Commission

ANNEX

to Commission Regulation (EC) No 857/2003 opening an invitation to tender for the allocation of A3 export licences for fruit and vegetables (tomatoes, oranges, lemons and apples)

Tender submission period: 3 to 5 June 2003

Product code ⁽¹⁾	Destination ⁽²⁾	Indicative refund amount (EUR/t net)	Scheduled quantity (t)
0702 00 00 9100	F08	20	7 154
0805 10 10 9100 0805 10 30 9100 0805 10 50 9100	F00	19	6 481
0805 50 10 9100	F00	14	6 958
0808 10 20 9100 0808 10 50 9100 0808 10 90 9100	F09	9	2 923

⁽¹⁾ The product codes are defined in Commission Regulation (EEC) No 3846/87 (OJ L 366, 24.12.1987, p. 1).

⁽²⁾ The 'A' series destination codes are defined in Annex II to Regulation (EEC) No 3846/87.

NB: The numeric destination codes are set out in Commission Regulation (EC) No 2020/2001 (OJ L 273, 16.10.2001, p. 6).

The other destinations are defined as follows:

F00: all destinations except Estonia;

F03: all destinations except Switzerland and Estonia;

F04: Hong Kong, Singapore, Malaysia, Sri Lanka, Indonesia, Thailand, Taiwan, Papua New Guinea, Laos, Cambodia, Vietnam, Japan, Uruguay, Paraguay, Argentina, Mexico, Costa Rica;

F08: all destinations except Slovakia, Latvia, Lithuania, Bulgaria and Estonia;

F09: the following destinations:

- Norway, Iceland, Greenland, Faeroe Islands, Poland, Hungary, Romania, Albania, Bosnia and Herzegovina, Croatia, Slovenia, Former Yugoslav Republic of Macedonia, Serbia and Montenegro, Malta, Armenia, Azerbaijan, Belarus, Georgia, Kazakhstan, Kyrgyzstan, Moldova, Russia, Tajikistan, Turkmenistan, Uzbekistan, Ukraine, Saudia Arabia, Bahrain, Qatar, Oman, United Arab Emirates (Abu Dhabi, Dubai, Sharjah, Ajman, Umm al Qalwain, Ras al Khaimah and Fujairah), Kuwait, Yemen, Syria, Iran, Jordan, Bolivia, Brazil, Venezuela, Peru, Panama, Ecuador and Colombia;
- African countries and territories except South Africa;
- destinations referred to in Article 36 of Commission Regulation (EC) No 800/1999 (OJ L 102, 17.4.1999, p. 11).

COMMISSION REGULATION (EC) No 858/2003
of 16 May 2003
prohibiting fishing for blue whiting by vessels flying the flag of a Member State with the exception
of Denmark and the United Kingdom

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 2847/93 of 12 October 1993 establishing a control system applicable to the common fisheries policy ⁽¹⁾, as last amended by Regulation (EC) No 2846/98 ⁽²⁾, and in particular Article 21(3) thereof,

Whereas:

- (1) Council Regulation (EC) No 2341/2002 of 20 December 2002 fixing for 2003 the fishing opportunities and associated conditions for certain fish stocks and groups of fish stocks, applicable in Community waters and, for Community vessels, in waters where catch limitations are required ⁽³⁾ lays down quotas for blue whiting for 2003.
- (2) In order to ensure compliance with the provisions relating to the quantity limits on catches of stocks subject to quotas, the Commission must fix the date by which catches made by vessels flying the flag of a Member State are deemed to have exhausted the quota allocated.
- (3) According to the information received by the Commission, catches of blue whiting in the waters of ICES Vb (Faeroese waters) by vessels flying the flag of a Member

State or registered in a Member State, with the exception of Denmark and the United Kingdom, have exhausted their quota,

HAS ADOPTED THIS REGULATION:

Article 1

Catches of blue whiting in the waters of the ICES Vb (Faeroese waters) by vessels flying the flag of a Member State or registered in a Member State, with the exception of Denmark and the United Kingdom, are hereby deemed to have exhausted their quota for 2003.

Fishing for blue whiting in the waters of the ICES Vb (Faeroese waters) by vessels flying the flag of a Member State or registered in a Member State, with the exception of Denmark and the United Kingdom, is hereby prohibited, as are the retention on board, transshipment and landing of this stock caught by the above vessels after the date of entry into force of this Regulation.

Article 2

This Regulation shall enter into force on the day following its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 16 May 2003.

For the Commission

Jörgen HOLMQUIST

Director-General for Fisheries

⁽¹⁾ OJ L 261, 20.10.1993, p. 1.

⁽²⁾ OJ L 358, 31.12.1998, p. 5.

⁽³⁾ OJ L 356, 31.12.2002, p. 12.

DIRECTIVE 2003/24/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
of 14 April 2003
amending Council Directive 98/18/EC on safety rules and standards for passenger ships

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 80(2) thereof,

Having regard to the proposal from the Commission ⁽¹⁾,

Having regard to the opinion of the European Economic and Social Committee ⁽²⁾,

Having consulted the Committee of the Regions,

Acting in accordance with the procedure laid down in Article 251 of the Treaty ⁽³⁾,

Whereas:

- (1) Council Directive 98/18/EC of 17 March 1998 on safety rules and standards for passenger ships ⁽⁴⁾ introduces a uniform level of safety of life and property on new and existing passenger ships and high-speed passenger craft, when both categories of ships and craft are engaged on domestic voyages, and lays down procedures for negotiation at international level with a view to a harmonisation of the rules for passenger ships engaged on international voyages.
- (2) The definition of sea areas is crucial to determine the application of Directive 98/18/EC to different classes of passenger ships. The Directive includes a procedure for the publication of lists of sea areas that has proved difficult to implement. It is therefore necessary to establish a functional and transparent procedure, enabling effective monitoring of the implementation of the Directive.
- (3) With a view to harmonising the level of safety applying to passenger ships across the Community, the derogation given to Greece in relation to the timetable for the application of the safety requirements should be deleted.
- (4) Directive 2003/25/EC of the European Parliament and of the Council of 14 April 2003 on specific stability requirements for ro-ro passenger ships ⁽⁵⁾ introduces strengthened stability requirements for ro-ro passenger vessels operating on international services to and from Community ports, and this enhanced measure should

also apply to certain categories of such vessels operating on domestic services under the same sea conditions. Failure to apply such stability requirements should be grounds for phasing out ro-ro passenger ships after a certain number of years of operation.

- (5) In view of the structural modifications that the existing ro-ro passenger ships may need to undergo in order to comply with the specific stability requirements, those requirements should be introduced over a period of years in order to allow the part of the industry affected sufficient time to comply: to that end, a phasing-in timetable for existing ships should be provided. This phasing-in timetable should not affect the enforcement of the specific stability requirements in the sea areas covered by the Annexes to the Stockholm Agreement of 28 February 1996.
- (6) It is necessary to take account of changes that have been made to relevant international instruments, such as the International Maritime Organisation (IMO) conventions, protocols, codes and resolutions, and to do so in a flexible and rapid manner.
- (7) By virtue of Directive 98/18/EC, the International Code for Safety of High-Speed Craft contained in IMO Maritime Safety Committee Resolution MSC 36 (63) of 20 May 1994 applies to all high-speed passenger craft operating on domestic services. The IMO has adopted a new high-speed craft code, the International Code for Safety of High-Speed Craft, 2000 (2000 HSC Code), contained in IMO Maritime Safety Committee Resolution MSC 97(73) of 5 December 2000, applying to all high-speed craft constructed on or after 1 July 2002. It is important to ensure that Directive 98/18/EC can be updated in a flexible manner to apply such developments at the international level, also to high-speed passenger craft operating on domestic services.
- (8) It is important to apply appropriate measures to ensure the access in safe conditions of persons with reduced mobility to ships and high-speed passenger craft operating on domestic services in the Member States.

⁽¹⁾ OJ C 20 E, 28.1.2003, p. 51.

⁽²⁾ Opinion delivered on 11 December 2002 (not yet published in the Official Journal).

⁽³⁾ Opinion of the European Parliament of 7 November 2002 (not yet published in the Official Journal), and Council Decision of 17 March 2003.

⁽⁴⁾ OJ L 144, 15.5.1998, p. 1. Directive as last amended by Directive 2002/84/EC of the European Parliament and of the Council (OJ L 324, 29.11.2002, p. 53).

⁽⁵⁾ See page 22 of this Official Journal.

- (9) Directive 98/18/EC should therefore be amended accordingly,

HAVE ADOPTED THIS DIRECTIVE:

Article 1

Directive 98/18/EC is hereby amended as follows:

1. in Article 2 the following points shall be added:

‘(ea) “ro-ro passenger ship” means a ship carrying more than 12 passengers, having ro-ro cargo spaces or special category spaces, as defined in regulation II-2/A/2 contained in Annex I.’

‘(ha) “age” means the age of the ship, expressed in number of years after the date of its delivery.’

‘(w) “persons with reduced mobility” means anyone who has a particular difficulty when using public transport, including elderly persons, disabled persons, persons with sensory impairments and wheelchair users, pregnant women and persons accompanying small children.’;

2. Article 4(2) shall be replaced by the following:

‘2. Each Member State shall:

(a) establish, and update, when necessary, a list of sea areas under its jurisdiction, delimiting the zones for all-year-round operation and, where appropriate, restricted periodical operation of the classes of ships, using the criteria for classes set out in paragraph 1;

(b) publish the list in a public database available on the Internet site of the competent maritime authority;

(c) notify to the Commission the location of such information, and when modifications are made to the list.’;

3. the following Articles shall be inserted:

‘Article 6a

Stability requirements and phasing-out of ro-ro passenger ships

1. All ro-ro passenger ships of Classes A, B, and C, the keel of which is laid or which are at a similar stage of construction on or after 1 October 2004 shall comply with Articles 6, 8 and 9 of Directive 2003/25/EC of the European Parliament and of the Council of 14 April 2003 on specific stability requirements for ro-ro passenger ships (*).

2. All ro-ro passenger ships of Classes A and B, the keel of which is laid or which are at a similar stage of construction before 1 October 2004 shall comply with Articles 6, 8 and 9 of Directive 2003/25/EC by 1 October 2010, unless they are phased out on that date or on a later date on which they reach the age of 30 years but in any case not later than 1 October 2015.

Article 6b

Safety requirements for persons with reduced mobility

1. Member States shall ensure that appropriate measures are taken, based, where practicable, on the guidelines in Annex III to enable persons with reduced mobility to have safe access to all passenger ships of Classes A, B, C and D and to all high-speed passenger craft, used for public transport, the keel of which is laid or which are at a similar stage of construction on or after 1 October 2004.

2. Member States shall cooperate with and consult organisations representing persons with reduced mobility on the implementation of the guidelines included in Annex III.

3. For the purpose of modification of passenger ships of Classes A, B, C and D and high-speed passenger craft, used for public transport, the keel of which is laid or which are at a similar stage of construction before 1 October 2004, Member States shall apply the guidelines in Annex III as far as reasonable and practicable in economic terms.

Member States shall draw up a national action plan on how the guidelines shall be applied to such ships and craft. They shall forward that plan to the Commission not later than 17 May 2005.

4. Member States shall report to the Commission on the implementation of this Article as regards all passenger ships referred to in paragraph 1, passenger ships referred to in paragraph 3 certified to carry more than 400 passengers and all high-speed passenger craft, not later than 17 May 2006.

(*) OJ L 123, 17.5.2003, p. 22.’

4. Annex III shall be added, as set out in the Annex.

Article 2

Article 6(3)(g) of Directive 98/18/EC shall be deleted with effect from 1 January 2005.

Article 3

Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive before 17 November 2004. They shall forthwith inform the Commission thereof.

When Member States adopt these measures, they shall contain a reference to this Directive or shall be accompanied by such a reference on the occasion of their official publication. The methods of making such a reference shall be laid down by the Member States.

Article 4

This Directive shall enter into force on the day of its publication in the *Official Journal of the European Union*.

Article 5

This Directive is addressed to the Member States.

Done at Luxembourg, 14 April 2003.

For the European Parliament

P. COX

The President

For the Council

A. GIANNITSIS

The President

ANNEX

‘ANNEX III

GUIDELINES FOR SAFETY REQUIREMENTS FOR PASSENGER SHIPS AND HIGH-SPEED PASSENGER CRAFT FOR PERSONS WITH REDUCED MOBILITY*(as referred to in Article 6b)*

In applying the guidelines of this Annex, Member States shall follow the IMO circular MSC/735 of 24 June 1996 entitled “Recommendation on the design and operation of passenger ships to respond to elderly and disabled persons' needs”.

1. Access to the ship

The ships should be constructed and equipped in such a way that a person with reduced mobility can embark and disembark easily and safely, and can be ensured access between decks, either unassisted or by means of ramps, elevators or lifts. Directions to such access should be posted at the other accesses to the ship and at other appropriate locations throughout the ship.

2. Signs

Signs provided on a ship to aid passengers should be accessible and easy to read for persons with reduced mobility, (including persons with sensory disabilities), and be positioned at key points.

3. Means to communicate messages

The operator should have the means onboard the vessel visually and verbally to provide announcements, such as those regarding delays, schedule changes and on-board services, to persons with various forms of reduced mobility.

4. Alarm

The alarm system and alarm buttons must be designed so as to be accessible by and to alert all passengers with reduced mobility, including persons with sensory disabilities and persons with learning disabilities.

5. Additional requirements ensuring mobility inside the ship

Handrails, corridors and passageways, doorways and doors shall accommodate the movement of a person in a wheelchair. Elevators, vehicle decks, passenger lounges, accommodation and washrooms shall be designed in order to be accessible in a reasonable and proportionate manner to persons with reduced mobility.’

**DIRECTIVE 2003/25/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
of 14 April 2003**

on specific stability requirements for ro-ro passenger ships

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE
EUROPEAN UNION,

Having regard to the Treaty establishing the European
Community, and in particular Article 80(2) thereof,

Having regard to the proposal from the Commission ⁽¹⁾,

Having regard to the Opinion of the European Economic and
Social Committee ⁽²⁾,

Having consulted the Committee of the Regions,

Acting in accordance with the procedure laid down in Article
251 of the Treaty ⁽³⁾,

Whereas:

- (1) Within the framework of the common transport policy further measures should be taken to improve safety in maritime transport of passengers.
- (2) The Community wishes to avoid by all appropriate means shipping accidents involving ro-ro passenger ships and resulting in loss of life.
- (3) The survivability of ro-ro passenger ships following collision damage, as determined by their damage stability standard, is an essential factor for the safety of passengers and crew and is particularly relevant for search and rescue operations; the most dangerous problem for the stability of a ro-ro passenger ship with an enclosed ro-ro deck, following collision damage, is the one posed by the effect of a build up of significant amounts of water on that deck.
- (4) Persons using ro-ro passenger ships and crew employed on board such vessels throughout the Community should have the right to demand the same high level of safety regardless of the area in which ships operate.
- (5) In view of the internal market dimension of maritime transport of passengers, action at Community level is the most effective way of establishing a common minimum level of safety for ships throughout the Community.
- (6) Action at Community level is the best way to ensure the harmonised enforcement of principles agreed on within the International Maritime Organisation (IMO), thus

avoiding distortions of competition between the operators of ro-ro passenger ships operating in the Community.

- (7) General stability requirements for ro-ro passenger ships in damaged condition were established at international level by the 1990 Safety of Life at Sea (SOLAS 90) Conference and were included in Regulation II-1/B/8 of the SOLAS Convention (SOLAS 90 standard). These requirements are applicable in the entire Community owing to the direct application to international voyages of the SOLAS Convention and the application to domestic voyages of Council Directive 98/18/EC of 17 March 1998 on safety rules and standards for passenger ships ⁽⁴⁾.
- (8) The SOLAS 90 damage stability standard implicitly includes the effect of water entering the ro-ro deck in a sea state of the order of 1,5 m significant wave height.
- (9) IMO Resolution 14 of the 1995 SOLAS Conference, allowed IMO members to conclude regional agreements if they consider that prevailing sea conditions and other local conditions require specific stability requirements in a designated area.
- (10) Eight northern European countries, including seven Member States, agreed in Stockholm on 28 February 1996 to introduce a higher stability standard for ro-ro passenger ships in damaged condition in order to take into account the effect of water accumulation on the ro-ro deck and to enable the ship to survive in more severe states than the SOLAS 90 standard, up to 4 m significant wave heights.
- (11) Under this agreement, known as the Stockholm Agreement, the specific stability standard is directly related to the sea area in which the vessel operates and more particularly to the significant wave height recorded in the area of operation; the significant wave height of the area where the ship operates determines the height of water on the car deck that would arise following the occurrence of accidental damage.

⁽¹⁾ OJ C 20 E, 28.1.2003, p. 21.

⁽²⁾ Opinion delivered on 11 December 2002 (not yet published in the Official Journal).

⁽³⁾ Opinion of the European Parliament of 7 November 2002 (not yet published in the Official Journal), and Council Decision of 17 March 2003.

⁽⁴⁾ OJ L 144, 15.5.1998, p. 1; Directive as last amended by Directive 2002/84/EC of the European Parliament and of the Council (OJ L 324, 29.11.2002, p. 53).

- (12) At the conclusion of the Conference at which the Stockholm Agreement was adopted, the Commission noted that the Agreement was not applicable in other parts of the Community and announced its intention to examine the prevailing local conditions under which ro-ro passenger ships sail in all European waters and to take appropriate initiatives.
- (13) The Council entered a statement in the minutes of the 2 074th Council meeting of 17 March 1998 stressing the need to ensure the same level of safety for all passenger ferries operating in similar conditions, whether on international or on domestic voyages.
- (14) In its Resolution of 5 October 2000 on the sinking of the Greek ferry 'Samina' ⁽¹⁾, the European Parliament expressly stated that it awaited the evaluation by the Commission of the effectiveness of the Stockholm Agreement and other measures for improving the stability and safety of passenger ships.
- (15) Following an expert study by the Commission, the wave height conditions in south European waters were found to be similar to those in the north. While meteorological conditions may be generally more favourable in the south, the stability standard determined in the context of the Stockholm Agreement is based solely on the significant wave height parameter and the way this influences the accumulation of water on the ro-ro deck.
- (16) The application of Community safety standards regarding the stability requirements for ro-ro passenger ships is essential for the safety of these vessels and has to be part of the common maritime safety framework.
- (17) In the interests of improving safety and avoiding distortion of competition, the common safety standards regarding stability should apply to all ro-ro passenger ships, regardless of the flag that they fly, providing regular services to or from a port in the Member States on international voyages.
- (18) The safety of ships is primarily the responsibility of flag States and therefore each Member State should ensure compliance with the safety requirements applicable to the ro-ro passenger ships flying the flag of that Member State.
- (19) Member States should also be addressed in their capacity as host States. The responsibilities exercised in that capacity are based on specific port State responsibilities that are fully in line with the 1982 United Nations Convention on the Law of the Sea (Unclos).
- (20) The specific stability requirements introduced by this Directive should be based on a method, as set out in the Annexes to the Stockholm Agreement, which calculates the height of water on the ro-ro deck following collision damage in relation to two basic parameters: the ship's residual freeboard and the significant wave height in the sea area where the ship operates.
- (21) Member States should determine and publicise the significant wave heights in the sea areas crossed by ro-ro passenger ships on regular service to or from their ports. For international routes the significant wave heights should, wherever applicable and possible, be established in agreement between the States at both ends of the route. Significant wave heights for seasonal operation in the same sea areas may also be determined.
- (22) Every ro-ro passenger ship engaged in voyages within the scope of this Directive should fulfil the stability requirements in relation to the significant wave heights determined for its area of operation. It should carry a certificate of compliance issued by the Administration of the flag State, which should be accepted by all other Member States.
- (23) The SOLAS 90 Standard provides a level of safety equivalent to the specific stability requirements established by this Directive for ships operating in sea areas where the significant wave height is equal to or less than 1,5 m.
- (24) In view of the structural modifications that the existing ro-ro passenger ships may need to undergo in order to comply with the specific stability requirements, those requirements should be introduced over a period of years in order to allow to the part of the industry affected sufficient time to comply: to that end, a phasing-in timetable for existing ships should be provided. This phasing-in timetable should not affect the enforcement of the specific stability requirements in the sea areas covered by the Annexes to the Stockholm Agreement.
- (25) Article 4(1)(e) of Council Directive 1999/35/EC of 29 April 1999 on a system of mandatory surveys for the safe operation of regular ro-ro ferry and high-speed passenger craft services ⁽²⁾ provides that host States are to check that ro-ro passenger ferries and high-speed passenger craft comply with specific stability requirements adopted at regional level and transposed into their national legislation, when these ships operate a service covered by that national legislation in the region concerned.

⁽¹⁾ OJ C 178, 22.6.2001, p. 288.

⁽²⁾ OJ L 138, 1.6.1999, p. 1. Directive as amended by Directive 2002/84/EC of the European Parliament and of the Council.

- (26) High-speed passenger craft as defined in Regulation 1 of Chapter X of the SOLAS Convention, as amended, should not be required to comply with the provisions of this Directive, provided that they comply entirely with the provisions of the IMO 'International code for safety of high-speed craft', as amended.
- (27) The measures necessary for the implementation of this Directive should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission ⁽¹⁾.
- (28) Since the objective of the proposed action, namely to safeguard human life at sea by improving the survivability of ro-ro passenger ships in the event of damage, cannot be sufficiently achieved by the Member States and can therefore, by reason of the scale and effects of the action, be better achieved at Community level, the Community may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary in order to achieve that objective,
- (d) 'a passenger' is every person other than the master and the members of the crew or other persons employed or engaged in any capacity on board a ship on the business of that ship and other than a child under one year of age;
- (e) 'international Conventions' means the 1974 International Convention for the Safety of Life at Sea (the SOLAS Convention), and the 1966 International Convention on Load Lines, together with Protocols and amendments thereto in force;
- (f) 'regular service' means a series of ro-ro passenger ship crossings serving traffic between the same two or more ports, which is operated either:
- (i) according to a published timetable; or
 - (ii) with crossings so regular or frequent that they constitute a recognisable systematic series;
- (g) 'Stockholm Agreement' means the Agreement concluded at Stockholm on 28 February 1996 in pursuance of SOLAS 95 Conference Resolution 14 'Regional agreements on specific stability requirements for ro-ro passenger ships', adopted on 29 November 1995;
- (h) 'administration of flag State' means the competent authorities of the State whose flag the ro-ro passenger ship is entitled to fly;
- (i) 'host State' means a Member State to or from whose ports a ro-ro passenger ship is engaged on a regular service;
- (j) 'international voyage' means a sea voyage from a port of a Member State to a port outside that Member State, or vice versa;
- (k) 'specific stability requirements' means the stability requirements set out in Annex I;
- (l) 'significant wave height' ('h_s') is the average height of the highest third of wave heights observed over a given period;
- (m) 'residual freeboard' ('f_r') is the minimum distance between the damaged ro-ro deck and the final waterline at the location of the damage, without taking into account the additional effect of the sea water accumulated on the damaged ro-ro deck.

HAVE ADOPTED THIS DIRECTIVE:

Article 1

Purpose

The purpose of this Directive is to lay down a uniform level of specific stability requirements for ro-ro passenger ships, which will improve the survivability of this type of vessel in case of collision damage and provide a high level of safety for the passengers and the crew.

Article 2

Definitions

For the purpose of this Directive, the following definitions shall apply:

- (a) 'ro-ro passenger ship' means a ship carrying more than 12 passengers, having ro-ro cargo spaces or special category spaces, as defined in Regulation II-2/3 of the SOLAS Convention, as amended;
- (b) 'new ship' means a ship the keel of which is laid or which is at a similar stage of construction on or after 1 October 2004: a similar stage of construction means the stage at which:
 - (i) construction identifiable with a specific ship begins; and
 - (ii) assembly of that ship has commenced comprising at least 50 tonnes or 1 % of the estimated mass of structural material, whichever is less;
- (c) 'an existing ship' means a ship which is not a new ship;

⁽¹⁾ OJ L 184, 17.7.1999, p. 23.

Article 3

Scope

1. This Directive shall apply to all ro-ro passenger ships operating to or from a port of a Member State on a regular service, regardless of their flag, when engaged on international voyages.
2. Each Member State, in its capacity as host State, shall ensure that ro-ro passenger ships, flying the flag of a State which is not a Member State, comply fully with the requirements of this Directive before they may be engaged on voyages from or to ports of that Member State in accordance with Article 4 of Directive 1999/35/EC.

*Article 4***Significant wave heights**

The significant wave heights (h_s) shall be used for determining the height of water on the car deck when applying the specific stability requirements contained in Annex I. The figures of significant wave heights shall be those which are not exceeded by a probability of more than 10 % on a yearly basis.

*Article 5***Sea areas**

1. Host States shall establish, not later than 17 May 2004, a list of sea areas crossed by ro-ro passenger ships operating on regular service to or from their ports as well as the corresponding values of significant wave heights in these areas.

2. The sea areas and the applicable values of the significant wave height in these areas shall be defined by agreement between the Member States or, wherever applicable and possible, between Member States and third countries at both ends of the route. Where the ship's route crosses more than one sea area, the ship shall satisfy the specific stability requirements for the highest value of significant wave height identified for these areas.

3. The list shall be notified to the Commission and published in a public database available in the internet site of the competent maritime authority. The location of such information as well as any updates to the list and the reasons for such updates shall also be notified to the Commission.

*Article 6***Specific stability requirements**

1. Without prejudice to the requirements of Regulation II-I/B/8 of the SOLAS Convention (SOLAS 90 standard) relating to watertight subdivision and stability in damaged condition, all ro-ro passenger ships referred to in Article 3(1) shall comply with the specific stability requirements set out in Annex I to this Directive.

2. For ro-ro passenger ships operating exclusively in sea areas where the significant wave height is equal to or lower than 1,5 metres, compliance with the requirements of the regulation referred to in paragraph 1 shall be considered equivalent to compliance with the specific stability requirements set out in Annex I.

3. In applying the requirements set out in Annex I, Member States shall use the guidelines set out in Annex II, in so far this is practicable and compatible with the design of the ship in question.

*Article 7***Introduction of the specific stability requirements**

1. New ro-ro passenger ships shall comply with the specific stability requirements as set out in Annex I.

2. Existing ro-ro passenger ships, with the exception of those ships to which Article 6(2) applies, shall comply with the specific stability requirements as set out in Annex I not later than 1 October 2010.

Existing ro-ro passenger ships which on 17 May 2003 are in compliance with the requirements of the regulation referred to in Article 6(1) shall comply with the specific stability requirements as set out in Annex I not later than 1 October 2015.

3. This Article shall be without prejudice to Article 4(1)(e) of Directive 1999/35/EC.

*Article 8***Certificates**

1. All new and existing ro-ro passenger ships flying the flag of a Member State shall carry a certificate confirming compliance with the specific stability requirements established in Article 6 and Annex I.

This certificate, which shall be issued by the administration of the flag State and may be combined with other related certificates, will indicate the significant wave height up to which the ship can satisfy the specific stability requirements.

The certificate shall remain valid as long as the ship operates in an area with the same or a lower value of significant wave height.

2. Each Member State acting in its capacity as host State shall recognise certificates issued by another Member State in pursuance of this Directive.

3. Each Member State acting in its capacity as host State shall accept certificates issued by a third country certifying that a ship complies with the specific stability requirements established.

*Article 9***Seasonal and short-time period operations**

1. If a shipping company operating a regular service on a year-round basis wishes to introduce additional ro-ro passenger ships to operate for a shorter period on that service, it shall notify the competent authority of the host State or States not later than one month before the said ships are operated on that service. However, in cases where, following unforeseen circumstances, a replacement ro-ro passenger ship must be introduced rapidly to ensure continuity of service, Directive 1999/35/EC shall apply.

2. If a shipping company wishes to operate seasonally a regular service for a shorter time period not exceeding six months a year, it shall notify the competent authority of the host State or States not later than three months before such operation takes place.

3. Where such operations take place under conditions of lower significant wave height than those established for the same sea area for all-year-round operation, the significant wave height value applicable for this shorter time period may be used by the competent authority for determining the height of water on the deck when applying the specific stability requirements contained in Annex I. The value of the significant wave height applicable for this shorter time period shall be agreed between the Member States or, wherever applicable and possible, between Member States and third countries at both ends of the route.

4. Following agreement of the competent authority of the host State or States for operations within the meaning of paragraphs 1 and 2, the ro-ro passenger ship which undertakes such operations shall be required to carry a certificate confirming compliance with the provisions of this Directive, as provided for in Article 8(1).

Article 10

Adaptations

In order to take account of developments at international level, in particular, in the International Maritime Organisation (IMO), and to improve the effectiveness of this Directive in the light of experience and of technical progress, the Annexes may be amended in accordance with the procedure referred to in Article 11(2).

Article 11

Committee

1. The Commission shall be assisted by the Committee on Safe Seas and the Prevention of Pollution from Ships established pursuant to Article 3 of Regulation (EC) No 2099/2002⁽¹⁾.

2. Where reference is made to this paragraph, Articles 5 and 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.

The period laid down in Article 5(6) of Decision 1999/468/EC shall be set at eight weeks.

3. The Committee shall adopt its Rules of Procedure.

Article 12

Penalties

Member States shall lay down the rules on penalties applicable to infringements of the national provisions adopted pursuant to this Directive and shall take all the measures necessary to ensure that they are implemented. The penalties provided for shall be effective, proportionate and dissuasive.

Article 13

Implementation

Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive before 17 November 2004. They shall forthwith inform the Commission thereof.

When Member States adopt these measures, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. The methods of making such reference shall be laid down by the Member States.

Article 14

Entry into force

This Directive shall enter into force on the day of its publication in the *Official Journal of the European Union*.

Article 15

Addressees

This Directive is addressed to the Member States.

Done at Luxembourg, 14 April 2003.

For the European Parliament

The President

P. COX

For the Council

The President

A. GIANNITSIS

⁽¹⁾ OJ L 324, 29.11.2002, p. 1.

ANNEX I

SPECIFIC STABILITY REQUIREMENTS FOR RO-RO PASSENGER SHIPS

as referred to in Article 6

1. In addition to the requirements of Regulation II-1/B/8 of the SOLAS Convention relating to watertight subdivision and stability in damaged condition, all ro-ro passenger ships referred to in Article 3(1) shall comply with the requirements of this Annex.
- 1.1. The provisions of Regulation II-1/B/8.2.3 shall be complied with when taking into account the effect of a hypothetical amount of sea water which is assumed to have accumulated on the first deck above the design waterline of the ro-ro cargo space or the special cargo space as defined in Regulation II-2/3 assumed to be damaged (hereinafter referred to as 'the damaged ro-ro deck'). The other requirements of Regulation II-1/B/8 need not be complied with in the application of the stability standard contained in this Annex. The amount of assumed accumulated sea water shall be calculated on the basis of a water surface having a fixed height above:
 - (a) the lowest point of the deck edge of the damaged compartment of the ro-ro deck; or
 - (b) when the deck edge of the damaged compartment is submerged then the calculation is based on a fixed height above the still water surface at all heel and trim angles;

as follows:

0,5 m if the residual freeboard (f_r) is 0,3 m or less,

0,0 m if the residual freeboard (f_r) is 2,0 m or more, and

intermediate values to be determined by linear interpolation, if the residual freeboard (f_r) is 0,3 m or more but less than 2,0 m,

where the residual freeboard (f_r) is the minimum distance between the damaged ro-ro deck and the final waterline at the location of the damage in the damage case being considered without taking into account the effect of the volume of assumed accumulated water on the damaged ro-ro deck,

- 1.2. When a high-efficiency drainage system is installed, the administration of the flag State may allow a reduction in the height of the water surface.
- 1.3. For ships in geographically defined restricted areas of operation, the administration of the flag State may reduce the height of the water surface prescribed in accordance with point 1.1 by substituting such height of the water surface by the following:
 - 1.3.1. 0,0 m if the significant wave height (h_s) defining the area concerned is 1,5 m or less;
 - 1.3.2. the value determined in accordance with paragraph 1.1 if the significant wave height (h_s) defining the area concerned is 4,0 m or above;
 - 1.3.3. intermediate values to be determined by linear interpolation if the significant wave height (h_s) defining the area concerned is 1,5 m or more but less than 4,0 m,
provided that the following conditions are fulfilled:
 - 1.3.4. the flag State administration is satisfied that the defined area is represented by the significant wave height (h_s) which is not exceeded with a probability of more than 10 %; and
 - 1.3.5. the area of operation and, if applicable, the part of the year for which a certain value of the significant wave height (h_s) has been established are entered on the certificates.
- 1.4. As an alternative to the requirements of paragraph 1.1 or 1.3, the flag State administration may exempt application of the requirements of paragraph 1.1 or 1.3 and accept proof, established by model tests carried out for an individual ship in accordance with the model test method, which appears in the Appendix, justifying that the ship will not capsize with the assumed extent of damage as provided in Regulation II-1/B/8.4 in the worst location being considered under paragraph 1.1, in an irregular seaway, and
- 1.5. reference to acceptance of the results of the model test as an equivalence to compliance with paragraph 1.1 or 1.3 and the value of the significant wave height (h_s) used in the model tests shall be entered on the ship's certificates.
- 1.6. the information supplied to the master in accordance with Regulations II-1/B/8.7.1 and II-1/B/8.7.2, as developed for compliance with Regulations II-1/B/8.2.3 to II-1/B/8.2.3.4, shall apply unchanged for ro-ro passenger ships approved according to these requirements.

2. For assessing the effect of the volume of the assumed accumulated sea water on the damaged ro-ro deck in paragraph 1, the following provisions shall prevail:
 - 2.1. a transverse or longitudinal bulkhead shall be considered intact if all parts of it lie inboard of vertical surfaces on both sides of the ship, which are situated at a distance from the shell plating equal to one-fifth of the breadth of the ship, as defined in Regulation II-1/2, and measured at right angles to the centreline at the level of the deepest subdivision load line;
 - 2.2. in cases where the ship's hull is structurally partly widened for compliance with the provisions of this Annex, the resulting increase of the value of one fifth of the breadth of it is to be used throughout, but shall not govern the location of existing bulkhead penetrations, piping systems, etc., which were acceptable prior to the widening;
 - 2.3. the tightness of transverse or longitudinal bulkheads which are taken into account as effective to confine the assumed accumulated sea water in the compartment concerned in the damaged ro-ro deck shall be commensurate with the drainage system, and shall withstand hydrostatic pressure in accordance with the results of the damage calculation. Such bulkheads shall be at least 2,2 m in height. However, in case of a ship with hanging car decks, the minimum height of the bulkhead shall be not less than the height to the underside of the hanging deck when in its lowered position;
 - 2.4. for special arrangements such as, e.g., full-width hanging decks and wide side casings, other bulkhead heights may be accepted on the basis of detailed model tests;
 - 2.5. the effect of the volume of the assumed accumulated sea water need not be taken into account for any compartment of the damaged ro-ro deck, provided that such a compartment has on each side of the deck freeing ports evenly distributed along the sides of the compartment complying with the following:
 - 2.5.1. $A \geq 0,3 l$
where A is the total area of freeing ports on each side of the deck in m²; and l is the length of the compartment in m;
 - 2.5.2. the ship shall maintain a residual freeboard of at least 1,0 m in the worst damage condition without taking into account the effect of the assumed volume of water on the damaged ro-ro deck; and
 - 2.5.3. such freeing ports shall be located within the height of 0,6 m above the damaged ro-ro deck, and the lower edge of the ports shall be within 2 cm above the damaged ro-ro deck; and
 - 2.5.4. such freeing ports shall be fitted with closing devices or flaps to prevent water entering the ro-ro deck whilst allowing water which may accumulate on the ro-ro deck to drain.
 - 2.6. When a bulkhead above the ro-ro deck is assumed damaged, both compartments bordering the bulkhead shall be assumed flooded to the same height of water surface as calculated in paragraph 1.1 or 1.3.
 3. When determining significant wave height, the wave heights given on the maps or list of sea areas established by Member States in line with Article 5 of this Directive shall be used.
 - 3.1. For ships which are to be operated only for a shorter season, the host State administration shall determine in agreement with the other country whose port is included in the ships route, the significant wave height to be used.
 4. Model tests shall be conducted in accordance with the Appendix.
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*Appendix***Model test method****1. Objectives**

In the tests provided for in paragraph 1.4 of the stability requirements included in Annex I, the ship should be capable of withstanding a seaway as defined in paragraph 3 hereunder in the worst-damage-case scenario.

2. Ship model

- 2.1. The model should copy the actual ship for both outer configuration and internal arrangement, in particular all damaged spaces having an effect on the process of flooding and shipping of water. The damage should represent the worst damage case defined for compliance with Regulation II-1/B/8.2.3.2 of the SOLAS Convention. An additional test is required at a level keel midship damage, if the worst damage location according to the SOLAS 90 standard is outside the range $\pm 10\%$ Lpp from the midship. This additional test is only required when the ro-ro spaces are assumed to be damaged.
- 2.2. The model should comply with the following:
 - 2.2.1. length between perpendiculars (Lpp) is to be at least 3 m;
 - 2.2.2. the hull is to be thin enough in areas where this feature has influence on the results;
 - 2.2.3. the characteristics of motion should be modelled properly to the actual ship, paying particular attention to scaling of radii of gyration in roll and pitch motions. Draught, trim, heel and centre of gravity should represent the worst damage case;
 - 2.2.4. main design features such as watertight bulkheads, air escapes, etc., above and below the bulkhead deck that can result in asymmetric flooding should be modelled properly as far as practicable to represent the real situation;
 - 2.2.5. the shape of the damage opening shall be as follows:
 - 2.2.5.1. rectangular side profile with a width according to Regulation II-1/B/8.4.1 of the SOLAS Convention and unlimited vertical extent;
 - 2.2.5.2. isosceles triangular profile in the horizontal plane with a height equal to B/5 according to Regulation II-1/B/8.4.2 of the SOLAS Convention.

3. Procedure for experiments

- 3.1. The model should be subjected to a long-crested irregular seaway defined by the Jonswap spectrum with a significant wave height h_s defined in paragraph 1.3 of the stability requirements and having peak enhancement factor γ and peak period T_p as follows:
 - 3.1.1. $T_p = 4\sqrt{h_s}$ with $\gamma = 3,3$; and
 - 3.1.2. T_p equal to the roll resonant period for the damaged ship without water on deck at the specified loading condition but not higher than $6\sqrt{h_s}$ and with $\gamma = 1$.
- 3.2. The model should be free to drift and placed in beam seas (90° heading) with the damage hole facing the oncoming waves. The model should not be restrained in a manner to resist capsize. If the ship is upright in flooded condition, 1° of heel towards the damage should be given.
- 3.3. At least five experiments for each peak period should be carried out. The test period for each run shall be of such duration that a stationary state has been reached but should be run for not less than 30 minutes in full-scale time. A different wave realisation train should be used for each test.
- 3.4. If none of the experiments result in final inclination towards the damage, the experiments should be repeated with five runs at each of the two specified wave conditions or, alternatively, the model should be given an additional one angle of heel towards the damage and the experiment repeated with two runs at each of the two specified wave conditions. The purpose of these additional experiments is to demonstrate, in the best possible way, survival capability against capsize in both directions.
- 3.5. The tests are to be carried out for the following damage cases:
 - 3.5.1. the worst damage case with regard to the area under the GZ curve according to the SOLAS Convention; and
 - 3.5.2. the worst midship damage case with regard to the residual freeboard in the midship area if required by paragraph 2.1.

4. **Survival criteria**

The ship should be considered as surviving if a stationary state is reached for the successive test runs as required in paragraph 3.3, provided that angles of roll of more than 30 ° against the vertical axis, occurring more frequently than in 20 % of the rolling cycles or steady heel greater than 20 ° should be taken as capsizing events even if a stationary state is reached.

5. **Test approval**

- 5.1. Proposals for model test programmes should be submitted to the host State administration to be approved in advance. It should also be borne in mind that lesser cases of damage may create a worst-case scenario.
- 5.2. The test should be documented by means of a report and a video or other visual record containing all relevant information on the ship and test results.
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ANNEX II

INDICATIVE GUIDELINES TO NATIONAL ADMINISTRATIONS

as referred to in Article 6(3)

PART I

APPLICATION

In line with the provisions of Article 6(3) of this Directive, these guidelines shall be used by the national administrations of Member States in the application of the specific stability requirements set out in Annex I, in so far as this is practicable and compatible with the design of the ship in question. The paragraph numbers appearing below correspond to those in Annex I.

Paragraph 1

As a first step all ro-ro passenger ships referred to in Article 3(1) of this Directive must comply with the SOLAS 90 standard of residual stability as it applies to all passenger ships constructed on or after 29 April 1990. It is the application of this requirement that defines the residual freeboard f_r necessary for the calculations required in paragraph 1.1.

Paragraph 1.1

1. This paragraph addresses the application of a hypothetical amount of water accumulated on the bulkhead (ro-ro) deck. The water is assumed to have entered the deck via a damage opening. This paragraph requires that the ship in addition to complying with the full requirements of the SOLAS 90 standard further complies with that part of the SOLAS 90 criteria contained in points 2.3 to 2.3.4 of Regulation II-1/B/8 with the defined amount of water on deck. For this calculation no other requirements of Regulation II-1/B/8 need be taken into account. For example the ship does not, for this calculation, need to comply with the requirements for the angles of equilibrium or non-submergence of the margin line.
2. The accumulated water is added as a liquid load with one common surface inside all compartments which are assumed flooded on the car deck. The height (h_w) of water on deck is dependent on the residual freeboard (f_r) after damage, and is measured in way of the damage (see figure 1). The residual freeboard, is the minimum distance between the damaged ro-ro deck and the final waterline (after equalisation measures if any have been taken) in way of the assumed damage after examining all possible damage scenarios in determining the compliance with the SOLAS 90 standard as required in paragraph 1 of Annex I. No account should be taken of the effect of the hypothetical volume of water assumed to have accumulated on the damaged ro-ro deck when calculating f_r .
3. If f_r is 2,0 m or more, no water is assumed to accumulate on the ro-ro deck. If f_r is 0,3 m or less, then height h_w is assumed to be 0,5 m. Intermediate heights of water are obtained by linear interpolation (see figure 2).

Paragraph 1.2

Means for drainage of water can only be considered as effective if these means are of a capacity to prevent large amounts of water from accumulating on the deck i.e. many thousands of tonnes per hour which is far beyond the capacities fitted at the time of the adoption of these regulations. Such high efficiency drainage systems may be developed and approved in the future (based on guidelines to be developed by the International Maritime Organisation)

Paragraph 1.3

1. The amount of assumed accumulated water on deck may, in addition to any reduction in accordance with paragraph 1.1, be reduced for operations in geographically defined restricted areas. These areas are designated in accordance with the significant wave height (h_s) defining the area in line with the provisions of Article 5 of this Directive.
2. If the significant wave height (h_s), in the area concerned, is 1,5 m or less then no additional water is assumed to accumulate on the damaged ro-ro deck. If the significant wave height in the area concerned is 4,0 m or more then the height of the assumed accumulated water shall be the value calculated in accordance with paragraph 1.1. Intermediate values to be determined by linear interpolation (see figure 3).
3. The height h_w is kept constant, therefore the amount of added water is variable as it is dependent upon the heeling angle and whether at any particular heeling angle the deck edge is immersed or not (see figure 4). It should be noted that the assumed permeability of the car deck spaces is to be taken as 90 % (MSC/Circ.649 refers), whereas other assumed flooded spaces permeabilities are to be those prescribed in the SOLAS Convention.
4. If the calculations to demonstrate compliance with this Directive relate to a significant wave height less than 4,0 m that restricting significant wave height must be recorded on the vessel's passenger ship safety certificate.

Paragraphs 1.4 and 1.5

As an alternative to complying with the new stability requirements in paragraph 1.1 or 1.3 an administration may accept proof of compliance via model tests. The model test requirements are detailed in the Appendix to Annex I. Guidance notes on the model tests are contained in part II of this Annex.

Paragraph 1.6

Conventionally derived SOLAS 90 standard limiting operational curve(s) (KG or GM) may not remain applicable in cases where 'water on deck' is assumed under the terms of this Directive and it may be necessary to determine revised limiting curve(s) which take into account the effects of this added water. To this effect sufficient calculations corresponding to an adequate number of operational draughts and trims must be carried out.

Note: Revised limiting operational KG/GM Curves may be derived by iteration, whereby the minimum excess GM resulting from damage stability calculations with water on deck is added to the input KG (or deducted from the GM) used to determine the damaged freeboards (f_d), upon which the quantities of water on deck are based, this process being repeated until the excess GM becomes negligible.

It is anticipated that operators would begin such an iteration with the maximum KG/minimum GM which could reasonably be sustained in service and would seek to manipulate the resulting deck bulkhead arrangement to minimise the excess GM derived from damage stability calculations with water on deck.

Paragraph 2.1

As for conventional SOLAS damage requirements bulkheads inboard of the B/5 line are considered intact in the event of side collision damage.

Paragraph 2.2

If side structural sponsons are fitted to enable compliance with Regulation II-1/B/8, and as a consequence there is an increase in the breadth (B) of the ship and hence the vessel's B/5 distance from the ship's side, such modification shall not cause the relocation of any existing structural parts or any existing penetrations of the main transverse watertight bulkheads below the bulkhead deck (see figure 5).

Paragraph 2.3

1. Transverse or longitudinal bulkheads/barriers which are fitted and taken into account to confine the movement of assumed accumulated water on the damaged ro-ro deck need not be strictly 'watertight'. Small amounts of leakage may be permitted subject to the drainage provisions being capable of preventing an accumulation of water on the 'other side' of the bulkhead/barrier. In such cases where scuppers become inoperative as a result of a loss of positive difference of water levels other means of passive drainage must be provided.
2. The height (B_h) of transverse and longitudinal bulkheads/barriers shall be not less than $(8 \times h_w)$ metres, where h_w is the height of the accumulated water as calculated by application of the residual freeboard and significant wave height (as referred to in paragraphs 1.1 and 1.3). However in no case is the height of the bulkhead/barrier to be less than the greater of:
 - (a) 2,2 metres; or
 - (b) the height between the bulkhead deck and the lower point of the underside structure of the intermediate or hanging car decks, when these are in their lowered position. It should be noted that any gaps between the top edge of the bulkhead and the underside of the plating must be 'plated-in' in the transverse or longitudinal direction as appropriate (see figure 6).

Bulkheads/barriers with a height less than that specified above, may be accepted if model tests are carried out in accordance with part II of this Annex to confirm that the alternative design ensures appropriate standard of survivability. Care needs to be taken when fixing the height of the bulkhead/barrier such that the height shall also be sufficient to prevent progressive flooding within the required stability range. This range is not to be prejudiced by model tests.

Note: The range may be reduced to 10 degrees provided the corresponding area under the curve is increased (as referred to in MSC 64/22).

Paragraph 2.5.1

The area 'A' relates to permanent openings. It should be noted that the 'freeing ports' option is not suitable for ships which require the buoyancy of the whole or part of the superstructure in order to meet the criteria. The requirement is that the freeing ports shall be fitted with closing flaps to prevent water entering, but allowing water to drain.

These flaps must not rely on active means. They must be self-operating and it must be shown that they do not restrict outflow to a significant degree. Any significant efficiency reduction must be compensated by the fitting of additional openings so that the required area is maintained.

Paragraph 2.5.2

For the freeing ports to be considered effective the minimum distance from the lower edge of the freeing port to the damaged waterline shall be at least 1,0 m. The calculation of the minimum distance shall not take into account the effect of any additional water on deck (see figure 7).

Paragraph 2.5.3

Freeing ports must be sited as low as possible in the side bulwark or shell plating. The lower edge of the freeing port opening must be no higher than 2 cm above the bulkhead deck and the upper edge of the opening no higher than 0,6 m (see figure 8).

Note: Spaces to which paragraph 2.5 applies, i.e. those spaces fitted with freeing ports or similar openings, shall not be included as intact spaces in the derivation of the intact and damage stability curves.

Paragraph 2.6

1. The statutory extent of damage is to be applied along the length of the ship. Depending on the subdivision standard the damage may not affect any bulkhead or may only affect a bulkhead below the bulkhead deck or only bulkhead above the bulkhead deck or various combinations.
2. All transverse and longitudinal bulkheads/barriers which constrain the assumed accumulated amount of water must be in place and secured at all times when the ship is at sea.
3. In those cases where the transverse bulkhead/barrier is damaged the accumulated water on deck shall have a common surface level on both sides of the damaged bulkhead/barrier at the height h_w (see figure 9).

PART II

MODEL TESTING

The purpose of these guidelines is to ensure uniformity in the methods employed in the construction and verification of the model as well as in the undertaking and analyses of the model tests, while appreciating that available facilities and costs will affect in some way this uniformity.

The content of paragraph 1 of the Appendix to Annex I is self-explanatory.

Paragraph 2 — Ship model

- 2.1. The material of which the model is made is not important in itself, provided that the model both in the intact and damaged condition is sufficiently rigid to ensure that its hydrostatic properties are the same as those of the actual ship and also that the flexural response of the hull in waves is negligible.

It is also important to ensure that the damaged compartments are modelled as accurately as practicably possible to ensure that the correct volume of flood water is represented.

Since ingress of water (even small amounts) into the intact parts of the model will affect its behaviour, measures must be taken to ensure that this ingress does not occur.

2.2. Model particulars

- 2.2.1. In recognising that scale effects play an important role in the behaviour of the model during tests, it is important to ensure that these effects are minimised as much as practically possible. The model should be as large as possible since details of damaged compartments are easier constructed in larger models and the scale effects are reduced. It is therefore recommended that the model length is not less than that corresponding to 1:40 scale. However it is required that the model is not less than 3 metres long at the subdivision load line.

- 2.2.2(a) The model in way of the assumed damages must be as thin as practically possible to ensure that the amount of flood water and its centre of gravity is adequately represented. It is recognised that it may not be possible for the model hull and the elements of primary and secondary subdivision in way of the damage to be constructed with sufficient detail and due to these constructional limitations it may not be possible to calculate accurately the assumed permeability of the space.

- 2.2.2(b) It has been found during tests that the vertical extent of the model can affect the results when tested dynamically. It is therefore required that the ship is modelled to at least three super structure standard heights above the bulkhead (freeboard) deck so that the large waves of the wave train do not break over the model.

- 2.2.2(c) It is important that not only the draughts in the intact condition are verified, but also that the draughts of the damaged model are accurately measured for correlation with those derived from the damaged stability calculation. After measuring the damaged draughts it may be found necessary to make adjustments to the permeability of the damaged compartment by either introducing intact volumes or by adding weights. However it is also important to ensure that the centre of gravity of the flood water is accurately represented. In this case any adjustments made must err on the side of safety.

2.2.2(d) If the model is required to be fitted with barriers on deck and the barriers are less than the height required as per paragraph 2.3 of Annex I, the model is to be fitted with CCTV so that any 'splashing over' and any accumulation of water on the undamaged area of the deck can be monitored. In this case a video recording of the event is to form part of the test records.

2.2.3. In order to ensure that the model motion characteristics represent those of the actual ship it is important that the model is both inclined and rolled in the intact condition so that the intact GM and the mass distribution are verified.

The transverse radius of gyration of the actual ship is not to be taken as being greater than 0,4B and the longitudinal radius of gyration is not to be taken as being more than 0,25L.

The transverse rolling period of the model is to be obtained by:

$$\frac{2 \times \pi \times 0,4 \times B}{\sqrt{g \times GM \times \lambda}}$$

where:

GM: metacentric height of the actual (intact) ship

g: acceleration due to gravity

λ : scale of model

B: breadth of actual ship.

Note:

While inclining and rolling the model in the damage condition may be accepted as a check for the purpose of verifying the residual stability curve, such tests are not to be accepted in lieu of the intact tests.

Nevertheless the damaged model must be rolled in order to obtain the rolling period required to perform the tests as per paragraph 3.1.2.

2.2.4. The contents of this paragraph are self-explanatory. It is assumed that the ventilators of the damage compartment of the actual ship are adequate for unhindered flooding and movement of the flood water. However in trying to scale down the ventilating arrangements of the actual ship undesirable scale effects may be introduced. In order to ensure that these do not occur it is recommended to construct the ventilating arrangements to a larger scale than that of the model, ensuring that this does not affect the flow of water on the car deck.

2.2.5. The isosceles triangular profile of the prismatic damage shape is that corresponding to the load waterline.

Additionally in cases where side casings of width less than B/5 are fitted and in order to avoid any possible scale effects, the damage length in way of the side casings must not be less than 2 metres.

Paragraph 3 — Procedure for experiments

3.1. Wave spectra

The Jonswap spectrum is to be used as this describes fetch and duration limited seas which correspond to the majority of the conditions world wide. In this respect it is important that not only the peak period of the wave train is verified but also that the zero crossing period is correct.

3.1.1. Corresponding to a peak period of $4\sqrt{h_s}$ and given that the enhancement factor γ is 3,3, the zero crossing period is not to be greater than:

$$\{T_p/(1,20 \text{ to } 1,28)\} \pm 5 \%$$

3.1.2. The zero crossing period corresponding to a peak period equal to the rolling period of the damaged model and given that the factor γ is to be 1, is not to be greater than:

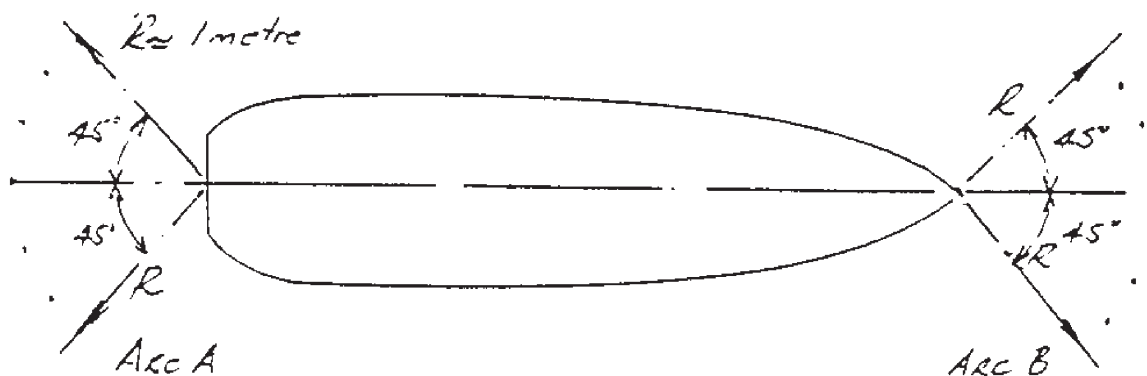
$$\{T_p/(1,3 \text{ to } 1,4)\} \pm 5 \%,$$

noting that if the rolling period of the damaged model is greater than $6\sqrt{h_s}$, the peak period is to be limited to $6\sqrt{h_s}$.

Note:

It has been found that it is not practical to set limits for zero crossing periods of the model wave spectra according to the nominal values of the mathematical formulae. Therefore an error margin of 5 % is allowed.

It is required that for every test run the wave spectrum is recorded and documented. Measurements for this recording are to be taken in the immediate vicinity of the model (but not on the leeside) — see figure (a) below, and also near the wave-making machine. It is also required that the model is instrumented so that its motions (roll, heave and pitch) as well as its attitude (heel, sinkage and trim) are monitored and recorded throughout the test.



The 'near the model' wave measuring probe to be positioned either on arc A or arc B (figure (a)).

Paragraphs 3.2, 3.3, 3.4

The contents of these paragraphs are considered self-explanatory.

Paragraph 3.5 *Simulated damages*

Extensive research carried out for the purpose of developing appropriate criteria for new vessels has clearly shown that in addition to the GM and freeboard being important parameters in the survivability of passenger ships, the area under the residual stability curve up to the angle of maximum GZ is also an other major factor. Consequently in choosing the worst SOLAS damage for compliance with the requirement of paragraph 3.5.1, the worst damage is to be taken as that which gives the least area under the residual stability curve up to the angle of the maximum GZ.

Paragraph 4 — Survival criteria

The contents of this paragraph are considered self-explanatory.

Paragraph 5 — Test approval

The following documents are to be part of the report to the administration:

- damage stability calculations for worst SOLAS and mid-ship damage (if different);
- general arrangement drawing of the model together with details of construction and instrumentation;
- inclining experiment and rolling test reports;
- calculations of actual ship and model rolling periods; and
- nominal and measured wave spectra (near the wave-making machine and near the model respectively);
- representative record of model motions, attitude and drift;
- relevant video recordings.

Note:

All tests must be witnessed by the administration.

Figures*(Indicative guidelines to national administrations)*

Figure 1

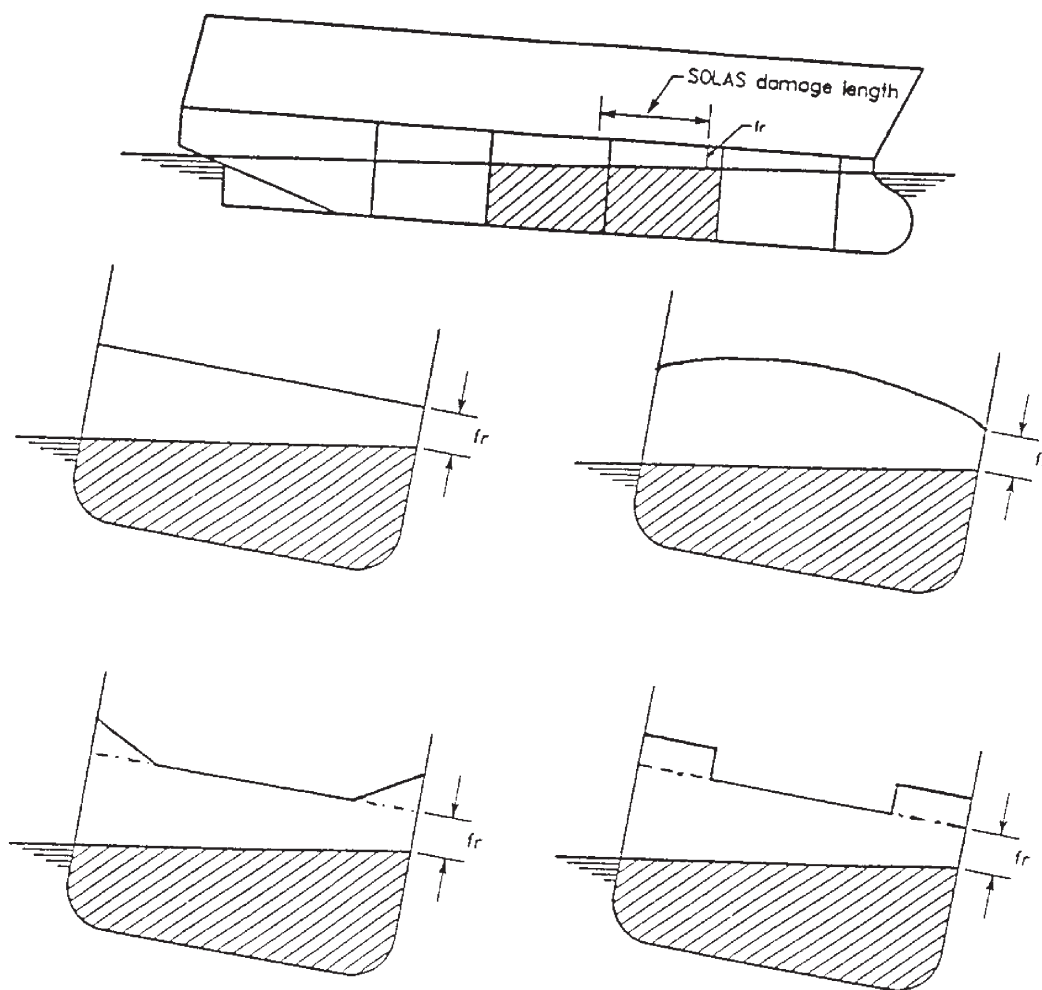
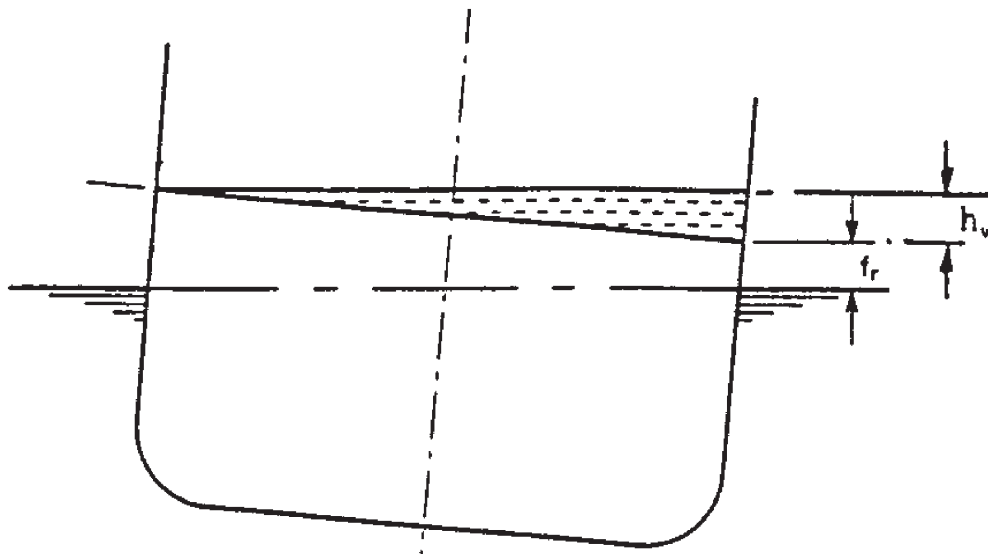
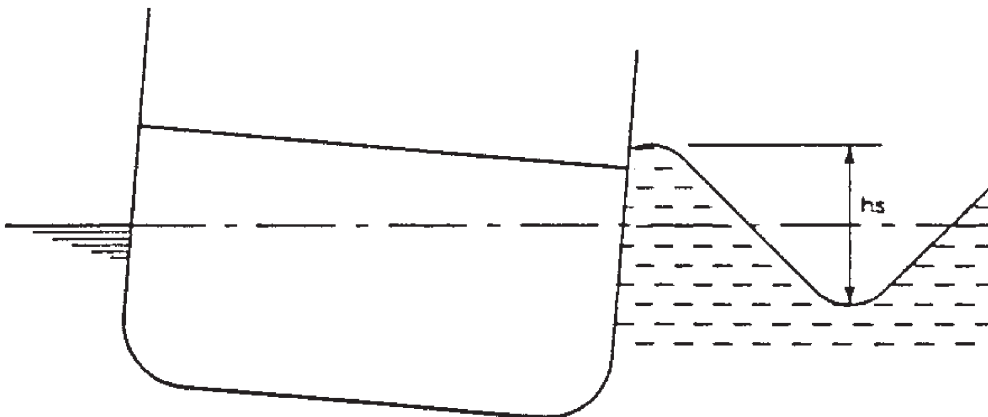


Figure 2



1. If $f_r \geq 2,0$ metres, height of water on deck (h_w) = 0,0 metres.
2. If $f_r < 0,3$ metres, height of water on deck (h_w) = 0,5 metres.

Figure 3



1. If $h_s \geq 4,0$ metres, height of water on deck is calculated as per figure 3.
2. If $h_s < 1,5$ metres, height of water on deck (h_w) = 0,0 metres.

For example:

If $f_r = 1,15$ metres and $h_s = 2,75$ metres, height $h_w = 0,125$ metres.

Figure 4

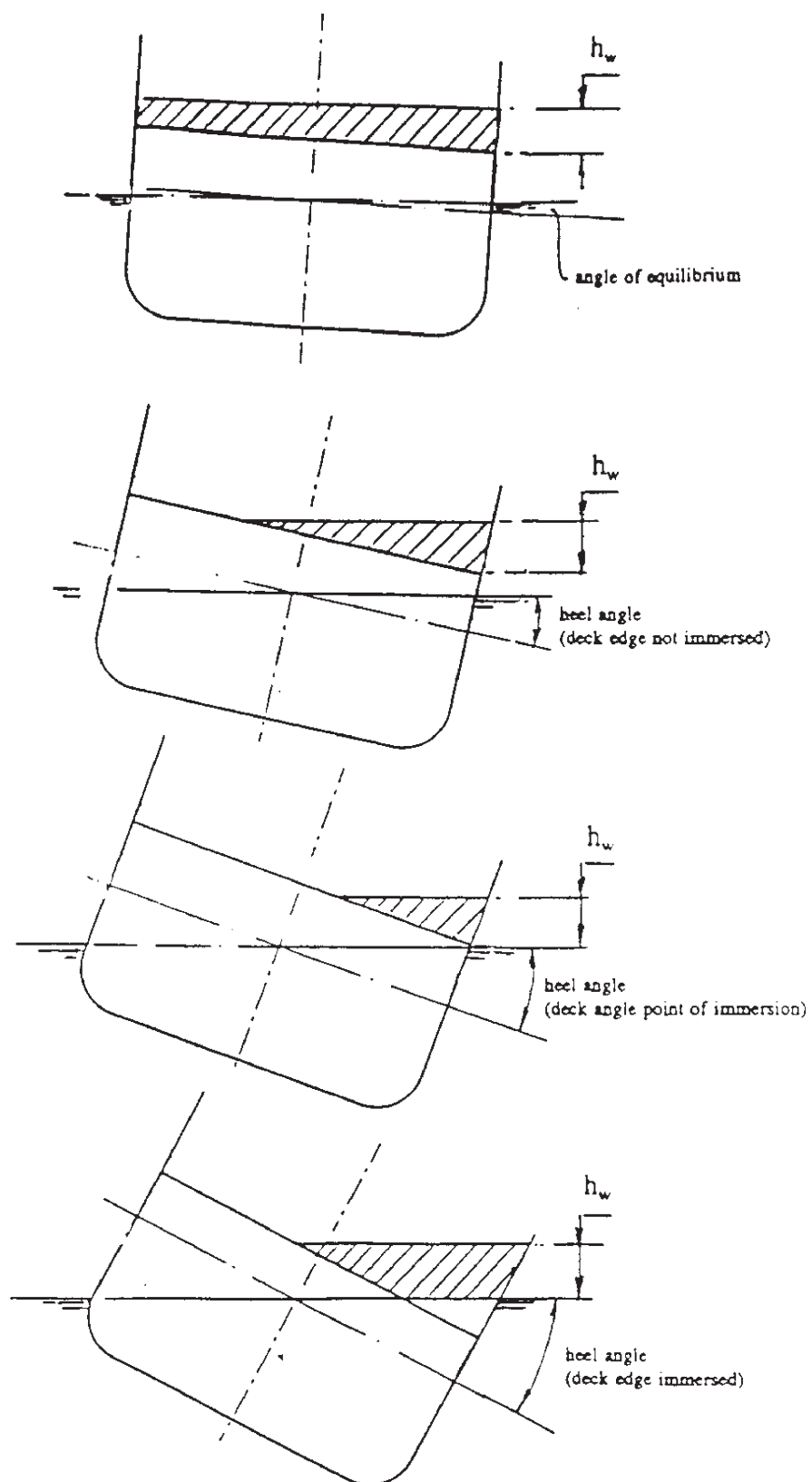


Figure 5

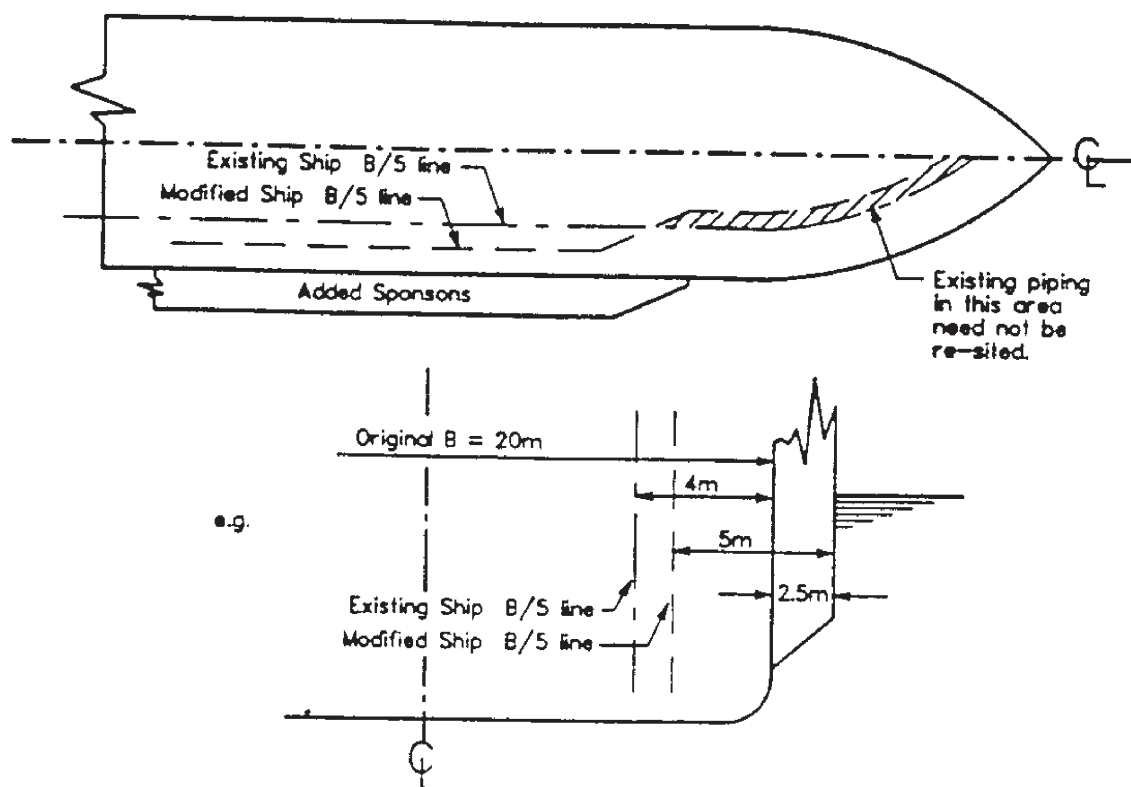
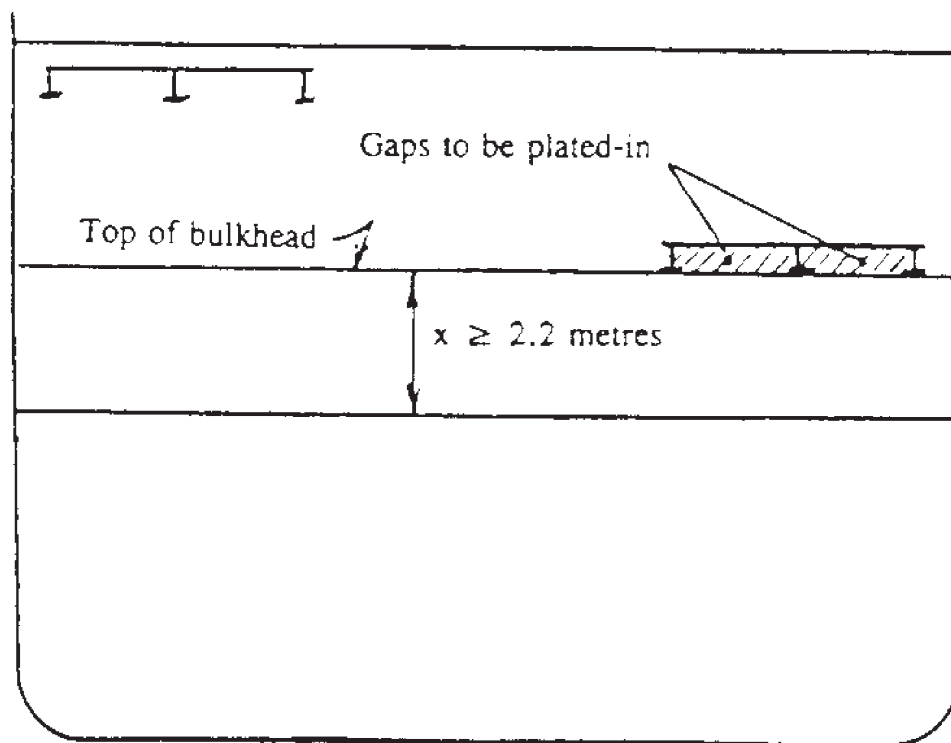


Figure 6



Ship without hanging car decks

Example 1:

Height of water on deck = 0,25 metres

Minimum required height of barrier = 2,2 metres

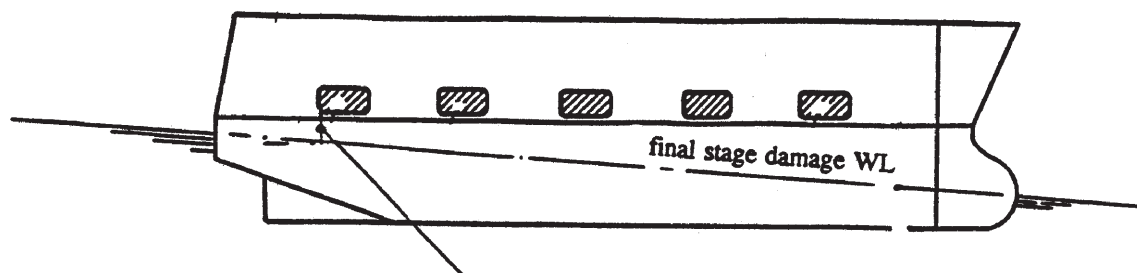
Ship with hanging deck (in way of the barrier)

Example 2:

Height of water on deck (hw) = 0,25 metres

Minimum required height of barrier = x

Figure 7



Minimum required freeboard to freeing port = 1,0 m

Figure 8

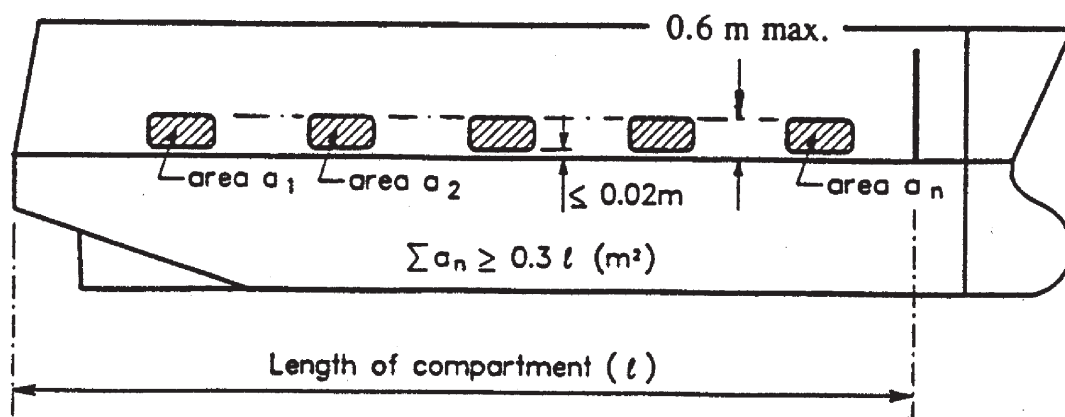
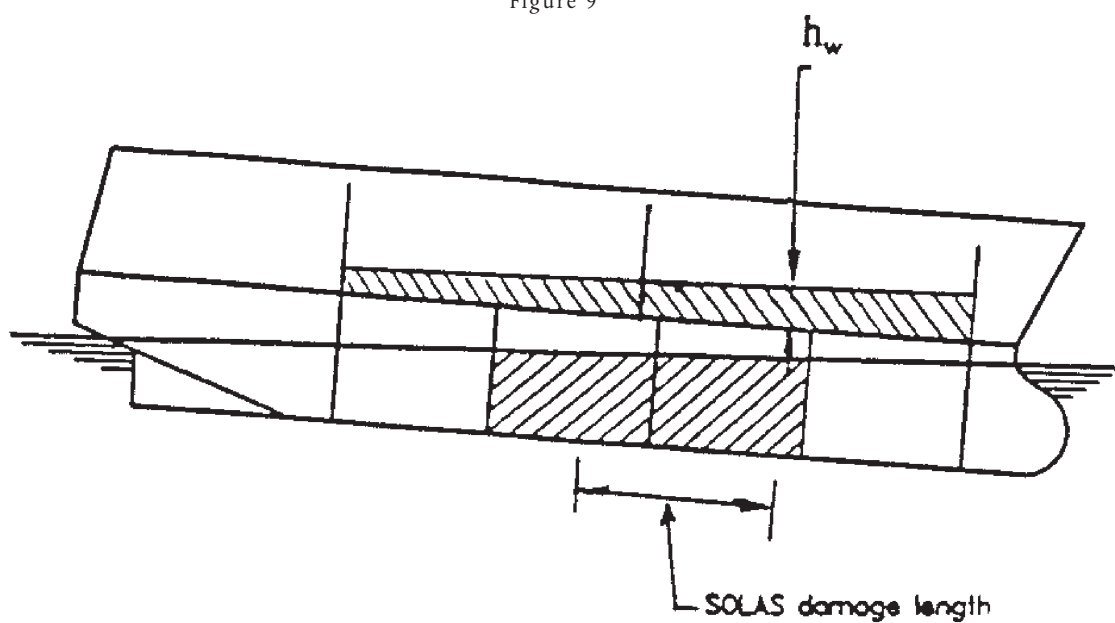
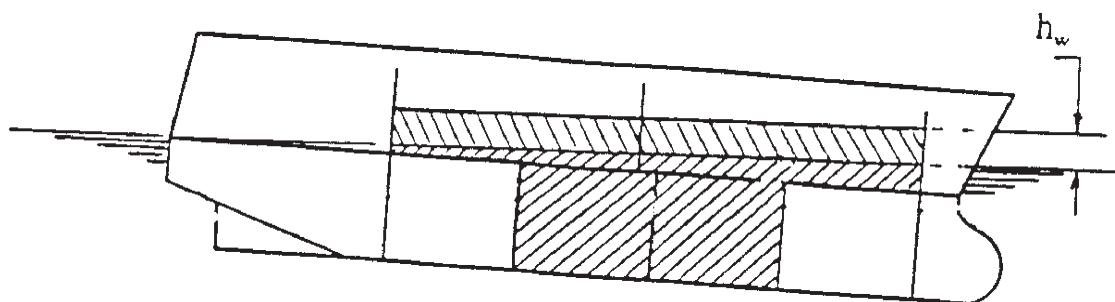


Figure 9



Deck edge not immersed



Deck edge immersed

DIRECTIVE 2003/30/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
of 8 May 2003
on the promotion of the use of biofuels or other renewable fuels for transport

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 175(1) thereof,

Having regard to the proposal from the Commission ⁽¹⁾,

Having regard to the opinion of the European Economic and Social Committee ⁽²⁾,

Having regard to the opinion of the Committee of the Regions ⁽³⁾,

Acting in accordance with the procedure laid down in Article 251 of the Treaty ⁽⁴⁾,

Whereas:

- (1) The European Council meeting at Gothenburg on 15 and 16 June 2001 agreed on a Community strategy for sustainable development consisting in a set of measures, which include the development of biofuels.
- (2) Natural resources, and their prudent and rational utilisation as referred to in Article 174(1) of the Treaty, include oil, natural gas and solid fuels, which are essential sources of energy but also the leading sources of carbon dioxide emissions.
- (3) However, there is a wide range of biomass that could be used to produce biofuels, deriving from agricultural and forestry products, as well as from residues and waste from forestry and the forestry and agri-foodstuffs industry.
- (4) The transport sector accounts for more than 30 % of final energy consumption in the Community and is expanding, a trend which is bound to increase, along with carbon dioxide emissions and this expansion will be greater in percentage terms in the candidate countries following their accession to the European Union.
- (5) The Commission White Paper 'European transport policy for 2010: time to decide' expects CO₂ emissions from transport to rise by 50 % between 1990 and 2010, to around 1 113 million tonnes, the main responsibility resting with road transport, which accounts for 84 % of transport-related CO₂ emissions. From an ecological

point of view, the White Paper therefore calls for dependence on oil (currently 98 %) in the transport sector to be reduced by using alternative fuels such as biofuels.

- (6) Greater use of biofuels for transport forms a part of the package of measures needed to comply with the Kyoto Protocol, and of any policy package to meet further commitments in this respect.
- (7) Increased use of biofuels for transport, without ruling out other possible alternative fuels, including automotive LPG and CNG, is one of the tools by which the Community can reduce its dependence on imported energy and influence the fuel market for transport and hence the security of energy supply in the medium and long term. However, this consideration should not detract in any way from the importance of compliance with Community legislation on fuel quality, vehicle emissions and air quality.
- (8) As a result of technological advances, most vehicles currently in circulation in the European Union are capable of using a low biofuel blend without any problem. The most recent technological developments make it possible to use higher percentages of biofuel in the blend. Some countries are already using biofuel blends of 10 % and higher.
- (9) Captive fleets offer the potential of using a higher concentration of biofuels. In some cities captive fleets are already operating on pure biofuels and, in some cases, this has helped to improve air quality in urban areas. Member States could therefore further promote the use of biofuels in public transport modes.
- (10) Promoting the use of biofuels in transport constitutes a step towards a wider application of biomass which will enable biofuel to be more extensively developed in the future, whilst not excluding other options and, in particular, the hydrogen option.
- (11) The research policy pursued by the Member States relating to increased use of biofuels should incorporate the hydrogen sector to a significant degree and promote this option, taking into account the relevant Community framework programmes.

⁽¹⁾ OJ C 103 E, 30.4.2002, p. 205 and OJ C 331 E, 31.12.2002, p. 291.

⁽²⁾ OJ C 149, 21.6.2002, p. 7.

⁽³⁾ OJ C 278, 14.11.2002, p. 29.

⁽⁴⁾ Opinion of the European Parliament of 4 July 2002 (not yet published in the Official Journal), Council Common Position of 18 November 2002 (OJ C 32 E, 11.2.2003, p. 1) and decision of the European Parliament of 12 March 2003 (not yet published in the Official Journal).

- (12) Pure vegetable oil from oil plants produced through pressing, extraction or comparable procedures, crude or refined but chemically unmodified, can also be used as biofuel in specific cases where its use is compatible with the type of engines involved and the corresponding emission requirements.
- (13) New types of fuel should conform to recognised technical standards if they are to be accepted to a greater extent by customers and vehicle manufacturers and hence penetrate the market. Technical standards also form the basis for requirements concerning emissions and the monitoring of emissions. Difficulties may be encountered in ensuring that new types of fuel meet current technical standards, which, to a large extent, have been developed for conventional fossil fuels. The Commission and standardisation bodies should monitor developments and adapt and develop actively standards, particularly volatility aspects, so that new types of fuel can be introduced, whilst maintaining environmental performance requirements.
- (14) Bioethanol and biodiesel, when used for vehicles in pure form or as a blend, should comply with the quality standards laid down to ensure optimum engine performance. It is noted that in the case of biodiesel for diesel engines, where the processing option is esterification, the standard prEN 14214 of the European Committee for Standardisation (CEN) on fatty acid methyl esters (FAME) could be applied. Accordingly, the CEN should establish appropriate standards for other transport biofuel products in the European Union.
- (15) Promoting the use of biofuels in keeping with sustainable farming and forestry practices laid down in the rules governing the common agricultural policy could create new opportunities for sustainable rural development in a more market-orientated common agriculture policy geared more to the European market and to respect for flourishing country life and multifunctional agriculture, and could open a new market for innovative agricultural products with regard to present and future Member States.
- (16) In its resolution of 8 June 1998 ⁽¹⁾, the Council endorsed the Commission's strategy and action plan for renewable energy sources and requested specific measures in the biofuels sector.
- (17) The Commission Green Paper 'Towards a European strategy for the security of energy supply' sets the objective of 20 % substitution of conventional fuels by alternative fuels in the road transport sector by the year 2020.
- (18) Alternative fuels will only be able to achieve market penetration if they are widely available and competitive.
- (19) In its resolution of 18 June 1998 ⁽²⁾, the European Parliament called for an increase in the market share of biofuels to 2 % over five years through a package of measures, including tax exemption, financial assistance for the processing industry and the establishment of a compulsory rate of biofuels for oil companies.
- (20) The optimum method for increasing the share of biofuels in the national and Community markets depends on the availability of resources and raw materials, on national and Community policies to promote biofuels and on tax arrangements, and on the appropriate involvement of all stakeholders/parties.
- (21) National policies to promote the use of biofuels should not lead to prohibition of the free movement of fuels that meet the harmonised environmental specifications as laid down in Community legislation.
- (22) Promotion of the production and use of biofuels could contribute to a reduction in energy import dependency and in emissions of greenhouse gases. In addition, biofuels, in pure form or as a blend, may in principle be used in existing motor vehicles and use the current motor vehicle fuel distribution system. The blending of biofuel with fossil fuels could facilitate a potential cost reduction in the distribution system in the Community.
- (23) Since the objective of the proposed action, namely the introduction of general principles providing for a minimum percentage of biofuels to be marketed and distributed, cannot be achieved sufficiently by the Member States by reason of the scale of the action, and can therefore be achieved better at Community level, the Community may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary in order to achieve that objective.
- (24) Research and technological development in the field of the sustainability of biofuels should be promoted.
- (25) An increase in the use of biofuels should be accompanied by a detailed analysis of the environmental, economic and social impact in order to decide whether it is advisable to increase the proportion of biofuels in relation to conventional fuels.

⁽¹⁾ OJ C 198, 24.6.1998, p. 1.

⁽²⁾ OJ C 210, 6.7.1998, p. 215.

- (26) Provision should be made for the possibility of adapting rapidly the list of biofuels, the percentage of renewable contents, and the schedule for introducing biofuels in the transport fuel market, to technical progress and to the results of an environmental impact assessment of the first phase of introduction.
- (27) Measures should be introduced for developing rapidly the quality standards for the biofuels to be used in the automotive sector, both as pure biofuels and as a blending component in the conventional fuels. Although the biodegradable fraction of waste is a potentially useful source for producing biofuels, the quality standard has to take into account the possible contamination present in the waste to avoid special components damaging the vehicle or causing emissions to deteriorate.
- (28) Encouragement of the promotion of biofuels should be consistent with security of supply and environmental objectives and related policy objectives and measures within each Member State. In doing so, Member States may consider cost-effective ways of publicising the possibilities of using biofuels.
- (29) The measures necessary for the implementation of this Directive should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission ⁽¹⁾,

HAVE ADOPTED THIS DIRECTIVE:

Article 1

This Directive aims at promoting the use of biofuels or other renewable fuels to replace diesel or petrol for transport purposes in each Member State, with a view to contributing to objectives such as meeting climate change commitments, environmentally friendly security of supply and promoting renewable energy sources.

Article 2

1. For the purpose of this Directive, the following definitions shall apply:

- (a) 'biofuels' means liquid or gaseous fuel for transport produced from biomass;
- (b) 'biomass' means the biodegradable fraction of products, waste and residues from agriculture (including vegetal and animal substances), forestry and related industries, as well as the biodegradable fraction of industrial and municipal waste;

(c) 'other renewable fuels' means renewable fuels, other than biofuels, which originate from renewable energy sources as defined in Directive 2001/77/EC ⁽²⁾ and used for transport purposes;

(d) 'energy content' means the lower calorific value of a fuel.

2. At least the products listed below shall be considered biofuels:

- (a) 'bioethanol': ethanol produced from biomass and/or the biodegradable fraction of waste, to be used as biofuel;
- (b) 'biodiesel': a methyl-ester produced from vegetable or animal oil, of diesel quality, to be used as biofuel;
- (c) 'biogas': a fuel gas produced from biomass and/or from the biodegradable fraction of waste, that can be purified to natural gas quality, to be used as biofuel, or woodgas;
- (d) 'biomethanol': methanol produced from biomass, to be used as biofuel;
- (e) 'biodimethylether': dimethylether produced from biomass, to be used as biofuel;
- (f) 'bio-ETBE (ethyl-tertio-butyl-ether)': ETBE produced on the basis of bioethanol. The percentage by volume of bio-ETBE that is calculated as biofuel is 47 %;
- (g) 'bio-MTBE (methyl-tertio-butyl-ether)': a fuel produced on the basis of biomethanol. The percentage by volume of bio-MTBE that is calculated as biofuel is 36 %;
- (h) 'synthetic biofuels': synthetic hydrocarbons or mixtures of synthetic hydrocarbons, which have been produced from biomass;
- (i) 'biohydrogen': hydrogen produced from biomass, and/or from the biodegradable fraction of waste, to be used as biofuel;
- (j) 'pure vegetable oil': oil produced from oil plants through pressing, extraction or comparable procedures, crude or refined but chemically unmodified, when compatible with the type of engines involved and the corresponding emission requirements.

Article 3

1. (a) Member States should ensure that a minimum proportion of biofuels and other renewable fuels is placed on their markets, and, to that effect, shall set national indicative targets.
- (b) (i) A reference value for these targets shall be 2 %, calculated on the basis of energy content, of all petrol and diesel for transport purposes placed on their markets by 31 December 2005.

⁽¹⁾ OJ L 184, 17.7.1999, p. 23.

⁽²⁾ Directive 2001/77/EC of the European Parliament and of the Council of 27 September 2001 on the promotion of electricity produced from renewable energy sources in the internal electricity market (OJ L 283, 27.10.2001, p. 33).

- (ii) A reference value for these targets shall be 5,75 %, calculated on the basis of energy content, of all petrol and diesel for transport purposes placed on their markets by 31 December 2010.

2. Biofuels may be made available in any of the following forms:

- (a) as pure biofuels or at high concentration in mineral oil derivatives, in accordance with specific quality standards for transport applications;
- (b) as biofuels blended in mineral oil derivatives, in accordance with the appropriate European norms describing the technical specifications for transport fuels (EN 228 and EN 590);
- (c) as liquids derived from biofuels, such as ETBE (ethyl-tertio-butyl-ether), where the percentage of biofuel is as specified in Article 2(2).

3. Member States shall monitor the effect of the use of biofuels in diesel blends above 5 % by non-adapted vehicles and shall, where appropriate, take measures to ensure compliance with the relevant Community legislation on emission standards.

4. In the measures that they take, the Member States should consider the overall climate and environmental balance of the various types of biofuels and other renewable fuels and may give priority to the promotion of those fuels showing a very good cost-effective environmental balance, while also taking into account competitiveness and security of supply.

5. Member States shall ensure that information is given to the public on the availability of biofuels and other renewable fuels. For percentages of biofuels, blended in mineral oil derivatives, exceeding the limit value of 5 % of fatty acid methyl ester (FAME) or of 5 % of bioethanol, a specific labelling at the sales points shall be imposed.

Article 4

1. Member States shall report to the Commission, before 1 July each year, on:

- the measures taken to promote the use of biofuels or other renewable fuels to replace diesel or petrol for transport purposes,
- the national resources allocated to the production of biomass for energy uses other than transport, and
- the total sales of transport fuel and the share of biofuels, pure or blended, and other renewable fuels placed on the market for the preceding year. Where appropriate, Member States shall report on any exceptional conditions in the supply of crude oil or oil products that have affected the marketing of biofuels and other renewable fuels.

In their first report following the entry into force of this Directive, Member States shall indicate the level of their national indicative targets for the first phase. In the report covering the year 2006, Member States shall indicate their national indicative targets for the second phase.

In these reports, differentiation of the national targets, as compared to the reference values referred to in Article 3(1)(b), shall be motivated and could be based on the following elements:

- (a) objective factors such as the limited national potential for production of biofuels from biomass;
- (b) the amount of resources allocated to the production of biomass for energy uses other than transport and the specific technical or climatic characteristics of the national market for transport fuels;
- (c) national policies allocating comparable resources to the production of other transport fuels based on renewable energy sources and consistent with the objectives of this Directive.

2. By 31 December 2006 at the latest, and every two years thereafter, the Commission shall draw up an evaluation report for the European Parliament and for the Council on the progress made in the use of biofuels and other renewable fuels in the Member States.

This report shall cover at least the following:

- (a) the cost-effectiveness of the measures taken by Member States in order to promote the use of biofuels and other renewable fuels;
- (b) the economic aspects and the environmental impact of further increasing the share of biofuels and other renewable fuels;
- (c) the life-cycle perspective of biofuels and other renewable fuels, with a view to indicating possible measures for the future promotion of those fuels that are climate and environmentally friendly, and that have the potential of becoming competitive and cost-efficient;
- (d) the sustainability of crops used for the production of biofuels, particularly land use, degree of intensity of cultivation, crop rotation and use of pesticides;
- (e) the assessment of the use of biofuels and other renewable fuels with respect to their differentiating effects on climate change and their impact on CO₂ emissions reduction;
- (f) a review of further more long-term options concerning energy efficiency measures in transport.

On the basis of this report, the Commission shall submit, where appropriate, proposals to the European Parliament and to the Council on the adaptation of the system of targets, as laid down in Article 3(1). If this report concludes that the indicative targets are not likely to be achieved for reasons that are unjustified and/or do not relate to new scientific evidence, these proposals shall address national targets, including possible mandatory targets, in the appropriate form.

Article 5

The list contained in Article 2(2) may be adapted to technical progress in accordance with the procedure referred to in Article 6(2). When adapting this list, the environmental impact of biofuels shall be taken into account.

Article 6

1. The Commission shall be assisted by a Committee.
2. Where reference is made to this paragraph, Articles 5 and 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.

The period laid down in Article 5(6) of Decision 1999/468/EC shall be set at three months.

3. The Committee shall adopt its Rules of Procedure.

Article 7

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 31 December 2004 at the latest. They shall forthwith inform the Commission thereof.

When Member States adopt these measures, they shall contain a reference to this Directive or be accompanied by such reference on the occasion of their official publication. The methods of making such a reference shall be laid down by the Member States.

2. Member States shall communicate to the Commission the provisions of national law which they adopt in the field covered by this Directive.

Article 8

This Directive shall enter into force on the day of its publication in the *Official Journal of the European Union*.

Article 9

This Directive is addressed to the Member States.

Done at Brussels, 8 May 2003.

For the European Parliament
The President
P. COX

For the Council
The President
M. CHRISOCHOÏDIS

II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DECISION

of 13 May 2003

authorising Germany to apply a measure derogating from Article 17 of the Sixth Directive 77/388/EEC on the harmonisation of the laws of the Member States relating to turnover taxes

(2003/354/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to the Sixth Council Directive 77/388/CEE of 17 May 1977 on the harmonisation of the laws of the Member States relating to turnover taxes — Common system of value added tax: uniform basis of assessment ⁽¹⁾, and in particular Article 27(1) thereof,

Having regard to the proposal by the Commission ⁽²⁾,

Whereas:

(1) In a letter registered by the Commission's Secretariat-General on 17 December 2002 the German authorities requested authorisation to continue to apply a derogation which had been granted by Article 1 of Council Decision 2000/186/EC ⁽³⁾.

(2) The other Member States were informed of the request on 17 January 2003.

(3) The derogating measure is intended to exclude expenditure on goods and services completely from the right to deduct VAT when the goods and services are used more than 90 % for the private purposes of the taxable person, or of his employees, or for non-business purposes in general. This measure is a derogation from Article 17 of Directive 77/388/EEC, as amended by Article 28f of that Directive and is justified by the need to simplify the procedure for charging VAT; it affects the amount of tax due at the final consumption stage only to a negligible extent.

(4) The authorisation expired on 31 December 2002, although the legal situation and the facts which justified application of the simplification measure in question have not changed and continue to exist.

(5) The duration of the new authorisation should however be limited to 30 June 2004. This maximum period will allow the derogation to be evaluated in the light of the ruling on Case C-17/01, which the Court will probably deliver in the course of 2003.

(6) The derogation will not adversely affect the Communities' own resources from VAT,

HAS ADOPTED THIS DECISION:

Article 1

By way of derogation from Article 17(2) of Directive 77/388/EEC Germany is authorised to exclude expenditure on goods and services from the right to deduct VAT when the goods and services in question are used more than 90 % for the private purposes of a taxable person or of his employees, or, more generally, for non-business purposes.

Article 2

This Decision shall apply until 30 June 2004.

⁽¹⁾ OJ L 145, 13.6.1977, p. 1. Directive last amended by Directive 2002/93/EC (OJ L 331, 7.12.2002, p. 27).

⁽²⁾ Proposal of 18 May 2003 (not yet published in the Official Journal).

⁽³⁾ OJ L 59, 4.3.2000, p. 12.

Article 3

This Decision is addressed to the Federal Republic of Germany.

Done at Brussels, 13 May 2003.

For the Council
The President
M. CHRISOCHOÏDIS

COMMISSION

COMMISSION DECISION

of 9 April 2003

amending Decision 2003/207/EC relating to a proceeding under Article 81 of the EC Treaty

(Case COMP/E-3/36.700 — Industrial and medical gases)

(notified under document number C(2003) 1180)

(Only the English and Dutch texts are authentic)

(2003/355/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation No 17 of 6 February 1962, First Regulation implementing Articles 85 and 86 of the Treaty ⁽¹⁾, as last amended by Regulation (EC) No 1216/1999 ⁽²⁾, and in particular Articles 3 and 15(2) thereof,

Having regard to Commission Decision 2003/207/EG of 24 July 2002 relating to a proceeding pursuant to Article 81 of the EC Treaty (Case COMP/E-3/36.700 — Industrial medical gases) ⁽³⁾, (hereinafter referred to as the Decision),

Whereas:

- (1) In the Decision the Commission found that at meetings of March and October 1994 anticompetitive discussions on 'price scales' and 'minimum prices' for cylinder gases for small customers took place with a view to an agreement between certain undertakings, including Westfalen Gassen Nederland BV (hereinafter Westfalen) ⁽⁴⁾.
- (2) Therefore Westfalen was found to have taken part in the following agreements/concerted practices ⁽⁵⁾:
 - (a) fixing price increases from October 1994 until December 1995, which is the end of the year for which the price increases were to be implemented;
 - (b) fixing moratorium periods from October 1994 until January 1995 in order to implement the above price increases;

- (c) fixing minimum prices from March 1994 until December 1995, which is the end of the year for which the minimum prices were agreed upon.

- (3) As a result the Commission found that Westfalen infringed Article 81(1) of the Treaty from March 1994 until December 1995 ⁽⁶⁾, and that Westfalen took part in the following agreements/concerted practices ⁽⁷⁾:
 - (a) fixing price increases from October 1994 until December 1995;
 - (b) fixing moratorium periods from October 1994 until January 1995;
 - (c) fixing minimum prices from March 1994 until December 1995.

- (4) The Commission concluded that this warranted, based on a starting amount of EUR 0,45 million to be increased by 15 % for duration, a basic amount of fine of EUR 0,51 million for Westfalen ⁽⁸⁾. Taking into account the attenuating circumstances applicable to that company, the Commission concluded that an amount of fine of EUR 0,43 million was warranted prior to any application of the Commission notice on the non-imposition or reduction of fines in cartel cases (the Leniency Notice) ⁽⁹⁾. As the Leniency Notice was not applicable to Westfalen, the Commission imposed a total fine of EUR 0,43 million to that company ⁽¹⁰⁾.

- (5) Westfalen filed an appeal ⁽¹¹⁾, at the Court of First Instance on 4 October 2002, in which it contested the Decision on certain grounds, among which it claimed that it did not participate in the meeting of March 1994.

⁽¹⁾ OJ L 13, 21.2.1962, p. 204/62.

⁽²⁾ OJ L 148, 15.6.1999, p. 5.

⁽³⁾ OJ L 84, 1.4.2003, p. 1.

⁽⁴⁾ Recital 205 of the Decision.

⁽⁵⁾ Recital 393 of the Decision.

⁽⁶⁾ Recital 433 of the Decision.

⁽⁷⁾ Recital 436 of the Decision.

⁽⁸⁾ Recital 438 of the Decision.

⁽⁹⁾ Recitals 449 and 450 of the Decision.

⁽¹⁰⁾ Recital 460 of the Decision.

⁽¹¹⁾ Case T-303/02 *Westfalen v Commission* (OJ C 305, 7.12.2002, p. 25).

- (6) Further to this appeal, the Commission realised that in its assessment it made a factual mistake as it did not take into account that Westfalen was indeed not represented in the abovementioned meeting of March 1994 but only at the meeting of October 1994 ⁽¹⁾.
- (7) It must therefore be stated that Westfalen took part in the following agreements/concerted practices:
- (a) fixing price increases from October 1994 until December 1995, which is the end of the year for which the price increases were to be implemented;
 - (b) fixing moratorium periods from October 1994 until January 1995 in order to implement the above price increases;
 - (c) fixing minimum prices from October 1994 until December 1995, which is the end of the year for which the minimum prices were agreed upon.
- (8) As a result it must be stated that Westfalen infringed Article 81(1) of the Treaty from October 1994 until December 1995 and that Westfalen took part in the following agreements/concerted practices:
- (a) fixing price increases from October 1994 until December 1995;
 - (b) fixing moratorium periods from October 1994 until January 1995;
 - (c) fixing minimum prices from October 1994 until December 1995.
- (9) As a consequence, with the same starting amount and an increase for duration now reduced to 10 %, the Commission should have set the basic amount of the fine for Westfalen at EUR 0,49 million. The fine calculated after taking into account the attenuating circumstances applicable to that company and prior to any application of the Leniency Notice should therefore amount to EUR 0,41 million and the total fine applicable to that company should amount to EUR 0,41 million.
- (10) This amendment has no consequences for the other parties involved in the Decision or for the rest of the Decision concerning Westfalen.
- (11) The difference between the amount of the fine imposed to Westfalen in the Decision of EUR 0,43, which has already been paid by that company, and the amended amount of the fine for Westfalen as reduced by the present Decision of EUR 0,41, which amounts to EUR 0,02 million, will be reimbursed to that company,

HAS ADOPTED THIS DECISION:

Article 1

Decision 2003/207/EC is hereby amended as follows:

1. in Article 1, the words 'Westfalen Gassen Nederland BV from March 1994 until December 1995' are replaced by the words 'Westfalen Gassen Nederland BV from October 1994 until December 1995';
2. in Article 3, the words 'Westfalen Gassen Nederland BV EUR 0,43 million' are replaced by the words 'Westfalen Gassen Nederland BV EUR 0,41 million'.

Article 2

This Decision is addressed to:

AGA AB
S-181 81 Lidingö

Air Liquide BV
De Witbogt 1
5652 AG Eindhoven
Nederland

Air Products Nederland BV
Klaprozenweg 101
Noordpoort
1033 NN Amsterdam
Nederland

BOC Group plc
Chertsey Road
Windlesham
GU20 6HJ — Surrey
United Kingdom

Messer Nederland BV
Middenweg 17
4782 PM Moerdijk
Nederland

NV Hoek Loos
Havenstraat 1
Postbus 78
3100 AB Schiedam
Nederland

Westfalen Gassen Nederland BV
Rigastraat 20
7418 EW Deventer
Nederland

Done at Brussels, 9 April 2003.

For the Commission

Mario MONTI

Member of the Commission

⁽¹⁾ See table 5 in Recital 106 of the Decision.

COMMISSION DECISION

of 16 May 2003

amending for the second time Decision 2003/289/EC concerning protection measures in relation to avian influenza in Belgium

(notified under document number C(2003) 1688)

(Only the French and Dutch texts are authentic)

(Text with EEA relevance)

(2003/356/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 90/425/EEC of 26 June 1990 concerning veterinary and zootechnical checks applicable in intra-Community trade in certain live animals and products with a view to the completion of the internal market ⁽¹⁾, as last amended by Directive 2002/33/EC of the European Parliament and of the Council ⁽²⁾, and, in particular, Article 10 thereof,

Having regard to Council Directive 89/662/EEC of 11 December 1989 concerning veterinary checks in intra-Community trade with a view to the completion of the internal market ⁽³⁾, as last amended by Directive 92/118/EEC ⁽⁴⁾, in particular Article 9 thereof,

Having regard to Council Directive 2002/99/EC of 16 December 2002 laying down the animal health rules governing the production, processing, distribution and introduction of products of animal origin for human consumption ⁽⁵⁾, and in particular Article 4(1) and (3) thereof,

Whereas:

- (1) On 16 April 2003 the veterinary authorities of Belgium have informed the Commission about a strong suspicion of avian influenza in the province of Limburg, which was subsequently officially confirmed.
- (2) The Belgian authorities have immediately, before the official confirmation of the disease, implemented the measures foreseen in Council Directive 92/40/EEC ⁽⁶⁾ introducing Community measures for the control of avian influenza.
- (3) For the sake of clarity and transparency the Commission after consultation with the Belgian authorities, has taken Decision 2003/275/EC ⁽⁷⁾ of 16 April 2003 concerning protection measures in relation to strong suspicion of avian influenza in Belgium, which has been subsequently replaced by Decision 2003/289/EC ⁽⁸⁾, as amended by Decision 2003/317/EC ⁽⁹⁾, thereby reinforcing the measures taken by Belgium.

- (4) Since 27 April no further cases of avian influenza have been recorded and no suspicions have been raised in Belgium, so that it can be concluded that the disease has been successfully controlled. The poultry holdings in the established buffer zones have been depopulated and restocking will start following a waiting period after cleaning and disinfection has been carried out.
- (5) Following a further waiting period until 26 May 2003, provided that no new outbreaks have been reported it would seem appropriate to limit the trade restrictions in force to the previously disease affected areas and an appropriate buffer zone around this area and to allow trade in live poultry and poultry products from the rest of the Belgian territory, which could then be considered as free of avian influenza.
- (6) The animal health certificates to be possibly used as from 27 May 2003 for consignments of live poultry and hatching eggs originating from the regionalised area in Belgium and destined for another Member State or third country should be amended accordingly.
- (7) The measures laid down in Decision 2003/289/EC should be further prolonged and adapted in the light of the evolution of the disease.
- (8) The measures provided for in this Decision are in accordance with the opinion of the Standing Committee on the Food Chain and Animal Health,

HAS ADOPTED THIS DECISION:

Article 1

Decision 2003/289/EC is amended as follows:

1. In Article 3 the first paragraph shall be replaced by the following text:

‘Without prejudice to the measures already taken in the framework of Directive 92/40/EEC, the competent authorities of Belgium shall ensure that the preventive depopulation of poultry holdings at risk within the restricted zones and the zones described in the Annex and the culling of other poultry and birds kept in these areas which are considered to be at risk is completed as soon as possible.’

⁽¹⁾ OJ L 224, 18.8.1990, p. 29.

⁽²⁾ OJ L 315, 19.11.2002, p. 14.

⁽³⁾ OJ L 395, 30.12.1989, p. 13.

⁽⁴⁾ OJ L 62, 15.3.1993, p. 49.

⁽⁵⁾ OJ L 18, 23.1.2003, p. 11.

⁽⁶⁾ OJ L 167, 22.6.1992, p. 1.

⁽⁷⁾ OJ L 99, 17.4.2003, p. 57.

⁽⁸⁾ OJ L 105, 26.4.2003, p. 24.

⁽⁹⁾ OJ L 115, 9.5.2003, p. 82.

2. A new Article 7a is added as follows:

Article 7a

1. However as of midnight 26 May 2003, if
 - (a) no further outbreaks of avian influenza are reported in Belgium before 17.00 on 26 May 2003, and
 - (b) all the clinical examinations and laboratory tests carried out in Belgium in relation to holdings infected, suspected or suspected to be contaminated with avian influenza have given negative results,

Article 1 shall be replaced by the following:

Article 1

1. Without prejudice to the measures taken by Belgium within the framework of Council Directive 92/40/EEC applied to the surveillance zones, the Belgian veterinary authorities shall ensure that no live poultry, hatching eggs and fresh, unprocessed and non-heat-treated poultry manure or litter are dispatched from the provinces of Antwerp and Limburg, to other parts of Belgium, other Member States and to third countries.

2. Without prejudice to the measures taken by Belgium within the framework of Council Directive 92/40/EEC within the surveillance zones the Belgian veterinary authorities shall ensure that no live poultry and hatching eggs are transported within provinces of Antwerp and Limburg.

3. By way of derogation from paragraph 2 the competent veterinary authority, taking all appropriate bio-security measures in accordance with Articles 4 and 5 to avoid the spread of avian influenza, may authorise the transport from areas situated outside the surveillance zones of:

- (a) poultry for immediate slaughter, including spent laying hens, to a slaughterhouse that has been designated by the competent veterinary authority;
- (b) day-old chicks and ready-to-lay pullets to a holding or shed under official control, where no other poultry is kept;
- (c) hatching eggs to a hatchery under official control.

If live poultry transported in accordance with (a) or (b) originate in another Member State or third country the transport has to be approved by the Belgian authorities and the competent authority of the Member State or third country of dispatch.

4. By way of derogation from paragraph 2 the competent veterinary authority, taking all appropriate bio-security measures to avoid the spread of avian influenza, may authorise transport of live poultry and hatching eggs not prohibited by Council Directive 92/40/EEC and in particular in respect to movements of day-old chicks in accordance with the provisions of Article 9 paragraph 4 (a), (b) and (c), which shall be transported to holdings within provinces of Antwerp and Limburg under official control."

2. For the purpose of paragraph 1, Belgium shall inform the Commission and the Member States on 26 May 2003 on the compliance with the conditions set up in paragraph 1.

3. Without prejudice to Article 1 paragraph 1 animal health certificates accompanying consignments of live poultry and hatching eggs originating and/or coming from the territory of Belgium with the exception of the provinces of Antwerp and Limburg to be signed as of 27 May 2003, provided the conditions laid down in paragraph 2 are fulfilled, shall include the words: "The animal health conditions of this consignment are in accordance with Decision 2003/356/EC".

3. In Article 4 paragraph (a) and (b) the following words shall be inserted after the word 'returned':

'after having been cleaned and disinfected in accordance with d) or shall be handled otherwise under official supervision and according to the instructions of the competent authority to avoid cross contamination;'

4. In Article 8 the time and date 'until 24.00 on 16 May 2003' are replaced by 'until 24.00 on 30 May 2003'.

Article 2

This Decision is addressed to the Kingdom of Belgium.

Done at Brussels, 16 May 2003.

For the Commission

David BYRNE

Member of the Commission

COMMISSION DECISION
of 16 May 2003
amending for the second time Decision 2003/290/EC concerning protective measures in relation to
avian influenza in the Netherlands

(notified under document number C(2003) 1689)

(Only the Dutch text is authentic)

(Text with EEA relevance)

(2003/357/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 90/425/EEC of 26 June 1990 concerning veterinary and zootechnical checks applicable in intra-Community trade in certain live animals and products with a view to the completion of the internal market ⁽¹⁾, as last amended by Directive 2002/33/EC of the European Parliament and of the Council ⁽²⁾, and in particular Article 10 thereof,

Having regard to Council Directive 89/662/EEC of 11 December 1989 concerning veterinary checks in intra-Community trade with a view to the completion of the internal market ⁽³⁾, as last amended by Directive 92/118/EEC ⁽⁴⁾, in particular Article 9 thereof,

Having regard to Council Directive 2002/99/EC of 16 December 2002 laying down the animal health rules governing the production, processing, distribution and introduction of products of animal origin for human consumption ⁽⁵⁾, and in particular Article 4(1) and (3) thereof,

Whereas:

- (1) Since 28 February 2003, the Netherlands have declared several outbreaks of highly pathogenic avian influenza.
- (2) The Netherlands took immediate action as provided for by Council Directive 92/40/EEC of 19 May 1992 introducing Community measures for the control of avian influenza ⁽⁶⁾, as amended by the Act of Accession of Austria, Finland and Sweden, before the disease was officially confirmed.

- (3) For the sake of clarity and transparency, the Commission after consultation with the Dutch authorities, took Decision 2003/153/EC of 3 March 2003 concerning protection measures in relation to strong suspicion of avian influenza in the Netherlands ⁽⁷⁾, thereby reinforcing the measures taken by the Netherlands.

- (4) Subsequently Decisions 2003/156/EC ⁽⁸⁾, 2003/172/EC ⁽⁹⁾, 2003/186/EC ⁽¹⁰⁾, 2003/191/EC ⁽¹¹⁾, 2003/214/EC ⁽¹²⁾, 2003/258/EC ⁽¹³⁾, 2003/290/EC ⁽¹⁴⁾ and Decision 2003/318/EC ⁽¹⁵⁾ were adopted after consultation with the Dutch authorities and evaluation of the situation with all Member States.

- (5) The measures laid down in Decision 2003/290/EC should be prolonged and adapted in the light of the evolution of the disease.

- (6) The measures provided for in this Decision are in accordance with the opinion of the Standing Committee on the Food Chain and Animal Health,

HAS ADOPTED THIS DECISION:

Article 1

Decision 2003/290/EC is amended as follows:

1. in Article 3, the first paragraph shall be replaced by the following text:

‘Without prejudice to the measures already taken in the framework of Directive 92/40/EEC, the competent authorities of the Netherlands shall ensure that the preventive depopulation of poultry holdings at risk within the restricted zones and the zones described in the Annex and the culling of other poultry and birds kept in these areas which are considered to be at risk is completed as soon as possible.’;

⁽¹⁾ OJ L 224, 18.8.1990, p. 29.

⁽²⁾ OJ L 315, 19.11.2002, p. 14.

⁽³⁾ OJ L 395, 30.12.1989, p. 13.

⁽⁴⁾ OJ L 62, 15.3.1993, p. 49.

⁽⁵⁾ OJ L 18, 23.1.2003, p. 11.

⁽⁶⁾ OJ L 167, 22.6.1992, p. 1.

⁽⁷⁾ OJ L 59, 4.3.2003, p. 32.

⁽⁸⁾ OJ L 64, 7.3.2003, p. 36.

⁽⁹⁾ OJ L 69, 13.3.2003, p. 27.

⁽¹⁰⁾ OJ L 71, 15.3.2003, p. 30.

⁽¹¹⁾ OJ L 74, 20.3.2003, p. 30.

⁽¹²⁾ OJ L 81, 28.3.2003, p. 48.

⁽¹³⁾ OJ L 95, 11.4.2003, p. 65.

⁽¹⁴⁾ OJ L 105, 26.4.2003, p. 28.

⁽¹⁵⁾ OJ L 115, 9.5.2003, p. 86.

2. in Article 4(a) and (b) the following words shall be inserted after the word 'returned':

'after having been cleaned and disinfected in accordance with (d) or shall be handled otherwise under official supervision and according to the instructions of the competent authority to avoid cross contamination;';

3. in Article 8 the time and date 'until 24.00 on 16 May 2003' are replaced by 'until 24.00 on 30 May 2003.'

Article 2

This Decision is addressed to the Kingdom of the Netherlands.

Done at Brussels, 16 May 2003.

For the Commission

David BYRNE

Member of the Commission

COMMISSION DECISION
of 16 May 2003
concerning protection measures in relation to of avian influenza in Germany

(notified under document number C(2003) 1690)

(Only the German text is authentic)

(Text with EEA relevance)

(2003/358/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 90/425/EEC of 26 June 1990 concerning veterinary and zootechnical checks applicable in intra-community trade in certain live animals and products with a view to the completion of the internal market ⁽¹⁾, as last amended by Directive 2002/33/EC of the European Parliament and of the Council ⁽²⁾, and, in particular, Article 10(4) thereof,

Having regard to Council Directive 89/662/EEC of 11 December 1989 concerning veterinary checks in intra-Community trade with a view to the completion of the internal market ⁽³⁾, as last amended by Directive 92/118/EEC ⁽⁴⁾, in particular Article 9 thereof,

Having regard to Council Directive 2002/99/EC of 16 December 2002 laying down the animal health rules governing the production, processing, distribution and introduction of products of animal origin for human consumption ⁽⁵⁾, and in particular Article 4(1) and (3) thereof,

Whereas:

(1) On 9 May the veterinary authorities of Germany informed the Commission about a strong suspicion of highly pathogenic avian influenza in a poultry flock in the *Land* of North Rhine-Westphalia, which was confirmed on 13 May 2003.

(2) Avian influenza is a highly contagious poultry disease that can pose a serious threat for the poultry industry.

(3) The German authorities immediately, before the official confirmation of the disease, implemented the measures laid down in Council Directive 92/40/EEC ⁽⁶⁾ introducing Community measures for the control of avian influenza.

(4) Council Directive 92/40/EEC sets out the minimum control measures to be applied in the event of an outbreak of avian influenza. The Member State may take more stringent action in the field covered by this Directive if deemed necessary and proportionate to contain the disease, taking into account the particular epidemiological, animal husbandry, commercial and social conditions prevailing.

(5) The German authorities have in cooperation with the Commission, put in place a standstill in the *Land* of North Rhine-Westphalia for transport of live poultry and hatching eggs, which includes a prohibition of dispatch of live poultry and hatching eggs. However, in view of the specificity of poultry production, movements of hatching eggs, day-old chicks, ready-to-lay pullets and poultry for immediate slaughter may be authorised within the *Land* of North Rhine-Westphalia. Furthermore the dispatch to other parts of Germany, other Member States and third countries of fresh, unprocessed manure and litter of poultry should also be prohibited from the *Land* of North Rhine-Westphalia.

(6) For the sake of clarity and transparency, the Commission, after consultation with the German authorities, adopted Decision 2003/333/EC of 12 May 2003 concerning protection measures in relation to strong suspicion of avian influenza in Germany ⁽⁷⁾, thereby reinforcing the measures taken by the German authorities.

(7) Fresh poultry meat destined for intra-Community trade has to be marked with a health mark in accordance with the health mark set out in Chapter XII of Annex I to Directive 71/118/EEC ⁽⁸⁾, as last amended by Council Directive 97/79/EC ⁽⁹⁾. In order to allow the marketing on the German market of fresh poultry meat obtained from poultry originating from the established surveillance zones special provisions for its health marking shall be laid down.

(8) The German authorities should reinforce bio-security and hygiene measures including cleaning and disinfection procedures to prevent the further spread of the disease at all levels of poultry and egg production.

⁽¹⁾ OJ L 224, 18.8.1990, p. 29.

⁽²⁾ OJ L 315, 19.11.2002, p. 14.

⁽³⁾ OJ L 395, 30.12.1989, p. 13.

⁽⁴⁾ OJ L 62, 15.3.1993, p. 49.

⁽⁵⁾ OJ L 18, 23.1.2003, p. 11.

⁽⁶⁾ OJ L 167, 22.6.1992, p. 1.

⁽⁷⁾ OJ L 116, 13.5.2003, p. 28.

⁽⁸⁾ OJ L 55, 8.3.1971, p. 23.

⁽⁹⁾ OJ L 13, 16.1.1997, p. 18.

- (9) Council Decision 90/424/EEC on expenditure in the veterinary field ⁽¹⁾, as last amended by Decision 2001/572/EC ⁽²⁾, establishes in Article 3(4) that the Commission may lay down any measures which the Member State concerned must take in order to ensure the success of the action; it appears appropriate that taking into account the existing situation in Germany, all poultry within a surrounding zone of an outbreak of avian influenza should be preventively depopulated.
- (10) To better understand the epidemiology of the disease a serological survey shall be carried out in pigs that are kept on holdings where poultry have been found infected with avian influenza.
- (11) The German authorities should furthermore ensure that precautionary measures are taken for persons at risk.
- (12) The other Member States have already adjusted the measures they apply to trade, and they are sufficiently informed by the Commission, and in particular in the context of the Standing Committee on the Food Chain and Animal Health on the appropriate period for their implementation.
- (13) The situation shall be reviewed at the meeting of the Standing Committee on the Food Chain and Animal Health scheduled for 28 May 2003.
- (14) The measures provided for in this Decision are in accordance with the opinion of the Standing Committee on the Food Chain and Animal Health,

HAS ADOPTED THIS DECISION:

Article 1

1. Without prejudice to the measures taken by Germany within the framework of Council Directive 92/40/EEC applied to the surveillance zones, the German veterinary authorities shall ensure that no live poultry, hatching eggs and fresh, unprocessed, and non-heat-treated poultry manure or litter, are dispatched from the area described in Annex to other parts of Germany, to other Member States and third countries.
2. Without prejudice to paragraph 1, animal health certificates accompanying consignments of live poultry and hatching eggs originating from Germany not listed in the Annex, shall include the words: 'The animal health conditions of this consignment are in accordance with Decision 2003/358/EC'.
3. Without prejudice to the measures taken by Germany within the framework of Council Directive 92/40/EEC within the surveillance zones, the German veterinary authorities shall ensure that no live poultry and hatching eggs are transported within the area described in the Annex.

4. By way of derogation from paragraph 3, the competent veterinary authority, taking all appropriate bio-security measures in accordance with Articles 4 and 5 to avoid the spread of avian influenza, may authorise the transport within the area described in the Annex from areas situated outside the surveillance zones of:

- (a) poultry for immediate slaughter, including spent laying hens, to a slaughterhouse that has been designated by the competent veterinary authority;
- (b) day-old chicks and ready-to-lay pullets, to a holding under official control where no other poultry is kept;
- (c) hatching eggs, to a hatchery under official control.

If live poultry transported in accordance with point (a) or (b) originate in a part of Germany outside of the Annex or in another Member State or third country, the transport has to be authorised by the German authorities and by the competent authority of the Member State or third country of dispatch.

5. By way of derogation from paragraph 3 the competent veterinary authority, taking all appropriate bio-security measures to avoid the spread of avian influenza, may authorise transport of live poultry and hatching eggs not prohibited by Council Directive 92/40/EEC, and in particular in respect to movements of day-old chicks in accordance with the provisions of its Article 9(4)(a), (b) and (c), which shall be transported under official control to holdings within the area described in the Annex.

6. (a) By way of derogation from paragraphs 1 and 4(a) and (b) the competent authorities of Germany may authorise the transport and dispatch from the area in Annex, part B, to other parts of Germany not listed in the Annex, of:

- poultry for immediate slaughter to a slaughterhouse that has been designated by the competent veterinary authorities,
- day-old chicks to a holding or shed under official control, where no other poultry is kept.

(b) The competent authorities shall ensure that the transport and dispatch according to paragraph (a):

- is carried out taking all appropriate bio-security measures in accordance with Articles 4 and 5 to avoid the spread of avian influenza,
- is authorised by the competent authorities of dispatch and of destination,
- is carried out on a prescribed route directly from the place of loading to the place of destination without any further loading or unloading of poultry and other material liable to spread the disease.

⁽¹⁾ OJ L 224, 18.8.1990, p. 19.

⁽²⁾ OJ L 203, 28.7.2001, p. 16.

- (c) The dispatched poultry and day-old chicks must undergo a clinical examination at the place of dispatch and at the place of destination according to the protocols issued by the competent authorities.

Article 2

Fresh poultry meat obtained from slaughter poultry transported by taking all appropriate bio-security measures in accordance with Articles 4 and 5 and originating from the established surveillance zones:

- (a) shall be marked with a round format mark in accordance with the further requirements of the competent authorities;
- (b) shall not be dispatched to other Member States or third countries;
- (c) must be obtained, cut, stored and transported separately from other fresh poultry meat destined for intra-Community trade and for exports to third countries, and must be used in such a way as to avoid it being introduced into meat products or meat preparations intended for intra-Community trade or for export to third countries, unless it has undergone the treatment specified in table 1(a), (b) or (c) of Annex III to Directive 2002/99/EC.

Article 3

Without prejudice to the measures already taken in the framework of Directive 92/40/EEC, the competent authorities of Germany shall ensure that the preventive depopulation of poultry holdings at risk within the restricted zones and the culling of other poultry and birds kept in these areas which are considered to be at risk is completed as soon as possible.

The precautionary measures referred to in the first subparagraph shall be taken without prejudice to Council Decision 90/424/EEC.

Article 4

In order to enhance bio-security in the poultry sector, the competent veterinary authority of Germany shall ensure that in the area described in Annex:

- (a) table eggs shall only be transported from a holding to a packing station either in disposable packaging or in containers, trays and other non-disposable equipment, which must be cleaned and disinfected before and after each use in accordance with point (d). In addition, in case of table eggs originating from an area outside of the Annex or another Member State, the competent veterinary authority shall ensure that the packaging, containers, trays and other non-disposable equipment used for their transport are directly returned after having been cleaned and disinfected in accordance with point (d) or shall be handled

otherwise under official supervision and according to the instructions of the competent authority to avoid cross contamination;

- (b) slaughter poultry intended for immediate slaughter shall be transported with trucks and in crates or cages which must be cleaned and disinfected before and after each use in accordance with point (d). In addition, in case of slaughter poultry originating from an area outside the Annex or another Member State, the competent veterinary authority shall ensure that the crates, cages and containers are directly returned after having been cleaned and disinfected in accordance with point (d) or shall be handled otherwise under official supervision and according to the instructions of the competent authority to avoid cross contamination;
- (c) day-old chicks are transported in disposable packing material to be destroyed after use;
- (d) the disinfectants and the method of cleaning and disinfection must be approved by the competent authority.

Article 5

The competent veterinary authority of Germany shall ensure that, in the area described in the Annex, stringent bio-security measures are taken at all levels of poultry and egg production in order to avoid risky contacts that may cause the spread of avian influenza between farms. These measures shall aim in particular at avoiding risky contacts of poultry, transport means, equipment and people entering or leaving poultry farms, egg packing stations, hatcheries, slaughterhouses, feed mills, litter processing and rendering plants. For this purpose all poultry farmers shall keep a register of all professional visits to their farms as well as their professional visits to other poultry holdings.

Article 6

1. The German authorities shall ensure that appropriate precautionary measures are adopted as regards the prevention of influenza infections in poultry workers and other persons at risk. These measures may include:

- (a) the use of protective clothing, gloves and glasses;
- (b) vaccination against human influenza;
- (c) prophylactic antiviral treatment.

2. The German authorities shall regularly inform the Commission in the framework of the Standing Committee of the Food Chain and Animal Health of the measures adopted.

Article 7

1. The German authorities shall carry out serological investigations in pigs kept on all holdings where poultry have been found infected with avian influenza.

2. In case of positive findings, the pigs may only be moved to other pig holdings or a slaughterhouse following authorisation by the competent veterinary authority if subsequent appropriate tests have revealed that the risk of spread of avian influenza viruses is negligible.

3. Movement to other pig holdings may take place only after all restrictions related to avian influenza in the holding of origin have been lifted.

4. The German authorities shall regularly inform the Commission in the framework of the Standing Committee of the Food Chain and Animal Health of the results of the survey.

Article 8

This Decision shall apply until 24.00 on 30 May 2003.

Article 9

This Decision is addressed to the Federal Republic of Germany.

Done at Brussels, 16 May 2003.

For the Commission

David BYRNE

Member of the Commission

ANNEX

The *Land* of North Rhine-Westphalia in the German territory consisting of:

part A: area situated west of the Rhine,

part B: area situated east of the Rhine.

COMMISSION DECISION

of 16 May 2003

laying down requirements for the prevention of avian influenza in susceptible birds in certain Member States

(notified under document number C(2003) 1691)

(Text with EEA relevance)

(2003/359/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 90/425/EEC of 26 June 1990 concerning veterinary and zootechnical checks applicable in intra-Community trade in certain live animals and products with a view to the completion of the internal market ⁽¹⁾, as last amended by Directive 2002/33/EC of the European Parliament and of the Council ⁽²⁾, and in particular Article 10 thereof,

Whereas:

(1) Council Directive 92/40/EEC of 19 May 1992 introducing Community measures for the control of avian influenza ⁽³⁾, as amended by the Act of Accession of Austria, Finland and Sweden, sets out the minimum control measures to be applied in the event of an outbreak of avian influenza in poultry, without prejudice to Community provisions governing intra-Community trade.

(2) Council Directive 92/65/EEC of 13 July 1992 laying down animal health requirements governing trade in and imports into the Community of animals, semen, ova and embryos not subject to animal health requirements laid down in specific Community rules referred to in Annex A(I) to Directive 90/425/EEC ⁽⁴⁾, as last amended by Commission Regulation (EC) No 1282/2002 ⁽⁵⁾, and in particular Article 3 thereof, provides that trade in and imports of the animals, semen, ova and embryos concerned must not be prohibited or restricted for animal health reasons, other than those arising from the application of Community legislation, and in particular any safeguard measures taken.

(3) Council Directive 1999/22/EC of 29 March 1999 relating to the keeping of wild animals in zoos ⁽⁶⁾, and in particular Article 2 thereof, sets out the definition of a zoo.

(4) Since 28 February 2003, the Netherlands has declared several outbreaks of avian influenza. Several outbreaks have also been declared since 16 April 2003 by Belgium. On 9 May 2003, the veterinary authorities of Germany

informed the Commission about a strong suspicion, which was confirmed on 13 May 2003, of avian influenza in a poultry flock in the *Land* of North Rhine-Westphalen.

(5) In order to avoid the spread of the infection and after evaluation of the epidemiological situation, the preventive culling of poultry at risk may be appropriate and decided by the competent authorities of the Member States concerned.

(6) The Member States concerned took immediate action as provided for by Council Directive 92/40/EEC before the disease was officially confirmed.

(7) For the sake of clarity and transparency, the Commission, after consultation with the authorities of the concerned Member States, has taken several Decisions reinforcing the measures taken by the Member States.

(8) On basis of Decision 2003/214/EC of 27 March 2003 concerning protective measures in relation to avian influenza in the Netherlands ⁽⁷⁾, of Decision 2003/275/EC of 16 April 2003 concerning protection measures in relation to a strong suspicion of avian influenza in Belgium ⁽⁸⁾, and of Decision 2003/333/EC of 12 May 2003 concerning protection measures in relation to a strong suspicion of avian influenza in Germany ⁽⁹⁾, respectively, the Dutch, the Belgian and German authorities have started preventive emptying and culling of poultry in holdings and areas at risk, in order to avoid further spreading of the virus.

(9) Directive 92/40/EEC does not apply where avian influenza is detected in other birds. However, in this case, the Member State concerned must inform the Commission of any measure it takes.

(10) In order to protect rare poultry breeds and birds threatened with extinction, and to conserve bio-diversity, the Member States concerned may decide to carry out an emergency vaccination against avian influenza of these susceptible birds.

⁽¹⁾ OJ L 224, 18.8.1990, p. 29.

⁽²⁾ OJ L 315, 19.11.2002, p. 14.

⁽³⁾ OJ L 167, 22.6.1992, p. 1.

⁽⁴⁾ OJ L 268, 14.9.1992, p. 52.

⁽⁵⁾ OJ L 187, 16.7.2002, p. 3.

⁽⁶⁾ OJ L 94, 9.4.1999, p. 24.

⁽⁷⁾ OJ L 81, 28.3.2003, p. 48.

⁽⁸⁾ OJ L 99, 17.4.2003, p. 57.

⁽⁹⁾ OJ L 116, 13.5.2003, p. 28.

- (11) To this end and in the light of the evolution of the avian influenza situation in the Netherlands and Belgium, Commission Decision 2003/291/EC of 25 April 2003 laying down the requirements for the prevention of avian influenza in susceptible birds kept in zoos in Belgium and the Netherlands⁽¹⁾, was adopted, establishing the measures applicable in case the Member States concerned decide to carry out an emergency vaccination against avian influenza of susceptible birds.
- (12) The emergency vaccination, even though limited to special categories of animals not primarily concerned by trade, may contribute to jeopardising the avian influenza status in terms of international trade, not only for the Member State nor for the part of its territory where vaccination is carried out.
- (13) Therefore special requirements should be laid down regarding trade of the vaccinated birds, and it is appropriate to provide that essential information concerning the emergency vaccination should be specified in a programme to be submitted by the Member States concerned to the Commission and the other Member States.
- (14) The requirements in this Decision should apply to zoos as defined in Directive 1999/22/EC and also to other bodies, which may keep rare susceptible birds.
- (15) For the sake of clarity, it is appropriate to repeal Decision 2003/291/EC and to replace it by this Decision.
- (16) The measures provided for in this Decision are in accordance with the opinion of the Standing Committee on the Food Chain and Animal Health,

HAS ADOPTED THIS DECISION:

Article 1

For the purpose of this Decision the following definitions shall apply:

- 'zoo': an establishment as referred to in Article 2 of Council Directive 1999/22/EC,
- 'approved body, institute or centre': as referred to in Article 2(1)(c) of Council Directive 92/65/EEC,
- 'susceptible bird': any bird species likely susceptible to avian influenza, kept in a zoo or an approved body, institute or centre.

Article 2

The competent veterinary authorities of the Member States listed in Annex I, shall ensure that stringent bio-security measures are taken in zoos and approved bodies, institutes or centres, where susceptible birds are kept, in order to avoid risky

contacts that may cause the introduction and spread of avian influenza. These measures shall aim in particular at avoiding risky contacts with the public and with poultry holdings.

Article 3

The competent veterinary authority of the Member States, listed in Annex I, may decide to apply emergency vaccination in zoos or approved bodies, institutes or centres against avian influenza to susceptible birds, that are considered to be at risk from the disease, on their territory in the areas set out in Annex II, and in accordance with the requirements set out in the Annex III to this Decision.

Article 4

The Member States concerned shall present officially in the Standing Committee on the Food Chain and Animal Health, a programme on the emergency vaccination against avian influenza, as referred to in Article 3, to the other Member States and the Commission. The programme shall at least comprise detailed information on:

- the exact address and location of the zoos and approved bodies, institutes or centres where the vaccination is to be carried out,
- the specific identification and number of susceptible birds,
- the individual identification of the birds to be vaccinated,
- the type of vaccine to be used, the vaccination scheme and the timing of the vaccination,
- the motivation of the decision to implement the measures,
- the timetable of the vaccinations to be carried out.

Article 5

Member States listed in Annex I shall implement national measures in compliance with this Decision and shall inform immediately the Commission thereof.

Article 6

Decision 2003/291/EC is repealed. References made to the repealed Decision shall be construed as being made to this Decision.

Article 7

This Decision is addressed to the Member States.

Done at Brussels, 16 May 2003.

For the Commission

David BYRNE

Member of the Commission

⁽¹⁾ OJ L 105, 26.4.2003, p. 34.

ANNEX I

- Belgium
- Germany
- the Netherlands

ANNEX II

- The whole territory of Belgium
- In Germany, the territory in the *Land* of North Rhine-Westphalen, delimited in the east by the Rhine and in the west by the borders with the Netherlands, Belgium and the *Land* of Rhineland-Palatinate
- The whole territory of the Netherlands

ANNEX III

REQUIREMENTS FOR THE USE OF EMERGENCY VACCINATION IN THE CONTROL AND ERADICATION OF AVIAN INFLUENZA

1. Extent of the vaccination to be carried out	The vaccination shall only take place on susceptible birds in a zoo or an approved body institute or centre.
2. Species of the animals to be vaccinated	A list of all the birds to be vaccinated together with the individual identification shall be laid down and kept for at least 10 years.
3. Duration of the vaccination	All birds to be vaccinated shall be vaccinated as quickly as possible. In any case each vaccination shall be completed within 96 hours.
4. Specific standstill of vaccinated animals and products of vaccinated animals	Vaccinated animals shall not be traded or moved unless under official supervision between zoos or approved bodies, institutes or centres in the same Member State, or after specific authorisation, of another Member State. Animal products from such animals shall not enter the food chain.
5. Special identification and special registration of the vaccinated animals	Vaccinated animals must be individually identifiable and the identity records of these animals must be clearly annotated accordingly. An indelible identification indicating the animals that have been vaccinated shall be applied at the time of vaccination wherever possible.
6. Other matters appropriate to the emergency vaccination	
6.1. Execution of the vaccination programme	Vaccination shall be carried out under the supervision of an official veterinarian of the competent authorities. Necessary measures must be in place to avoid possible spread of the virus. Any residual quantities of vaccine shall be returned to the point of vaccine distribution with a written record on the number of animals vaccinated and the number of doses used. Wherever possible blood samples shall be taken prior to and at least 30 days after vaccination for serological testing for avian influenza. A record of the test results must be kept for at least 10 years.
6.2. Vaccine to be used	The inactivated vaccine to be used shall be suitably formulated and be effective against the type of virus circulating. It shall be used in accordance with the instructions of the manufacturer and/or the veterinary authorities.
6.3. Information on implementation of this programme to the Commission	A detailed report on the execution of the programme including results of testing carried out shall be provided to the Commission and the Member States in the framework of the Standing Committee on the Food Chain and Animal Health.